

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

2025.PHHC.065443



**CWP No.5927 of 2023
Date of Decision: 16.05.2025**

Ashok Mohan Garg

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Parveen Kumar Garg, Advocate
for the petitioner
Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 10.06.2022 whereby his claim for service benefits on the ground of Second National Emergency from 03.12.1971 to 25.03.1977 has been rejected.

2. Mr. Aman Dhir, DAG, Punjab submits that this Court vide order dated 04.04.2024 passed in **CWP No. 455 of 2018** titled as “**Avtar Singh vs. State of Punjab and others**” has rejected claim of a similarly situated person. The operative portion of the order dated 04.04.2024 reads as below:-

*“ The petitioner concededly was not in service on 01.12.2011. He retired from service on 31.08.2006 i.e. much prior to introduction of Rule 8-B. The reliance placed by petitioner on judgment of Division Bench of this Court in **Rajinder Singh (Supra)** is misplaced. In the*



said case, the Division Bench has not adverted with para added by notification dated 10.04.2012 in Clause (b) of Rule 8-B. Notification dated 10.04.2012 inserted one para in Clause (b) after sub-clause (iii) of Rule 8- B. No doubt, it was provided in the notification dated 10.04.2012 that amended rules shall come into force w.e.f. 01.12.2011, however, the newly inserted para made it clear that these benefits shall be available to only those persons who were in service on 01.12.2011 or are appointed thereafter. The language of the notification is clear and from the reading of notification dated 10.04.2012, it is evident that State has restricted benefit of counting military service. It has been made applicable to employees who were in service on 01.12.2011.

9. The petitioner concededly retired in 2006 and Rule 8-B came to be inserted in 2009. The said rule was further amended by notification dated 10.04.2012. The amendment made it clear that benefit of counting of military service for pension would be available only to those employees who were in service prior to 01.12.2011 or are appointed thereafter. The petitioner was not in service on 01.12.2011, thus, he is not entitled to benefit, carved out by Rule 8-B of 1982 Rules of counting of military service for pension. The claim of the petitioner is unsustainable.”

3. Mr. Parveen Kumar Garg, Advocate submits that respondent has granted benefit to similarly situated persons, though it has declined to few persons. The respondent as per its choice has extended benefit to few persons which is discriminatory in nature. If benefit of a policy is granted to

few persons, it is bad to deny benefit of the same to other similarly situated persons.

4. Faced with this, Mr. Aman Dhir, DAG, Punjab submits that claim of the petitioner has been rejected on two counts. The petitioner is not considering second ground i.e. pension from Military. The petitioner is getting pension from Military, thus, he is not entitled to the benefit of Policy in question.

5. It is settled proposition of law that there cannot be negative equality. If the officers dealing with the Policy have committed some mistake while implementing the Policy, it does not mean that Court should extend benefit to similarly situated persons. The mistake or illegality cannot be perpetuated. It would be miscarriage of justice if Court orders to perpetuate mistake or illegality. The petitioner is unable to controvert the fact that findings recorded in the aforesaid judgment are squarely applicable to the case of petitioner.

 In the wake of above discussion and findings, this Court is of the considered opinion that petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

16.05.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No