
Before Jawahar Lal Gupta & B. Rai, JJ

PRITAM SINGH,—*Petitioner*

versus

P.S.E.B. THROUGH ITS SECRETARY/
CHAIRMAN,—*Respondent*

C.W.P. NO. 10813 of 1997

20th August, 1997

Constitution of India, 1950—Arts. 226/227—Punjab Government National emergency (Concession) Rules, 1965—Military Service—Claim for benefits of Military service towards seniority—Service rendered in Air force from December, 1969 to 1st August, 1994—Held petitioner not entitled to claim benefit of service rendered during second emergency—Benefit not admissible under the rules.

Held, that the necessity for a detailed examination of the matter is obviated by the fact that the issue is covered by the decision of a full Bench of this Court in *Rajender Kumar v. The State of Haryana and others*, 1992(2) PLR 754. It was held as under :—

“In view of what has been said above, we hold that benefits on account of serving in any of the wings of India Armed Force as have been spelled out in Rule 4 of the Punjab Government National Emergency (Concession) Rules, 1965 like increments and seniority are limited to the period of first emergency and not the second emergency which was declared by the President of India on account of external aggression,—*vide* notification dated December 3, 1971.”

(Para 4)

Further held, that the employee is entitled to claim the benefit of service rendered by him during the period of first Emergency. This was apparently in operation from October 26, 1952 to January 10, 1968. Consequently, no benefit is admissible in respect of service rendered after January 10, 1968. In the present case, the petitioner is claiming the benefit of the service rendered by him from March 12, 1969 to August 1, 1984. This benefit is not admissible under the rules. The claim is contrary to the plain language of Rule 2 which defines ‘military service’. It cannot, thus, be sustained.

(Para 6)

T.S. Gujral, Advocate, for the Petitioner

JUDGMENT

Jawahar Lal Gupta, J.

(1) The petitioner served in the Indian Air Force from March 12, 1969 to August 1, 1984. Thereafter, he joined service as a Meter Reader with the Punjab State Electricity Board on January 13, 1987. The petitioner claims that he was entitled to the benefit of the Army service. On September 19, 1989, he submitted a representation in this behalf. The respondent having failed to grant him the relief, he served a notice of demand. Even that elicited no reply. Aggrieved by the action of the respondent, the petitioner has filed the present writ petition. He prays for the issue of a writ of mandamus directing the respondent to grant him the benefit of military service rendered by him during the period from March 12, 1969 to August 1, 1984.

(2) The short question that arises for consideration is—Can the petitioner claim the benefit of the service rendered by him in the Air Force from March 12, 1969 to August 1, 1984 for the purpose of determination of his seniority and pay while serving as a Meter Reader in the Punjab State Electricity Board?

(3) Mr. Gujral, counsel for the petitioner has contended that according to Rule 2 of the Punjab Government National Emergency (concession) Rules, 1965, the service rendered by a person during the period of the operation of the proclamation of emergency qualifies as 'military service'. Consequently, the petitioner is entitled to the benefit as claimed by him. He has placed reliance on a Division Bench decision of this Court in *Narinder Nath Sharma v. State of Punjab*(1) and a Single Bench decision in *Surinder Pal Singh Chauhan v. State of Haryana*(2) in support of his submission.

(4) The decisions relied upon by the learned counsel undoubtedly support the submission. However, with utmost respect, we have reservations about the view expressed by the Division Bench in *Narinder Nath Sharma's* case (supra)

The necessity for a detailed examination of the matter is obviated by the fact that the issue is covered by the decision of a Full Bench of this Court in *Rajender Kumar v. The State of Haryana and others*(3). It was held as under :—

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1. 1993(2) Recent Services Judgment 173
 2. 1995(1) All Instant Judgments 555
 3. 1992(2) PLR 754

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(5) In view of the above decision, the view taken by the Division Bench does not appear to be correct. This decision was not brought to the notice of the court at the time of the hearing of the two cases referred to above.

(6) The Full Bench has categorically held that the employee is entitled to claim the benefit of service rendered by him during the period of first Emergency. This was apparently in operation from October 26, 1962 to January 10, 1968. Consequently, no benefit is admissible in respect of service rendered after January 10, 1968. In the present case, the petitioner is claiming the benefit of the service rendered by him from March 12, 1969 to August 1, 1984. This benefit is not admissible under the rules. The claim is contrary to the plain language of Rule 2 which defines ‘military service.’ It cannot, thus, be sustained.

(7) No other point arises for consideration.

(8) In view of the above, we find no ground to interfere. The writ petition is, accordingly, dismissed in limine.

J.S.T.

Before N.K. Agrawal, J

Ajit Singh and another,—Petitioners

versus

Nusrat Ali Khan,—Respondent

E.P.No. 19 of 1997

22nd August, 1997

Representation of the People Act, 1951—S.81 Limitation for filing Election petition—Office of High court open—Petition filed on the next working day—Petition barred by time.