

LPA-1784-2019 (O&M)
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2025:PHHC:046626-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1.

LPA-1784-2019 (O&M)
Date of decision: 04.04.2025

SUKHDEV SINGH Appellant(s)
Versus
STATE OF PUNJAB AND OTHERS Respondent(s)

2.

LPA-1785-2019 (O&M)

BALBIR SINGH Appellant(s)
Versus
STATE OF PUNJAB AND OTHERS Respondent(s)

3.

LPA-1788-2019 (O&M)

ANGREJ SINGH Appellant(s)
Versus
STATE OF PUNJAB AND OTHERS Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. P.S. Khurana, Advocate
for appellant.

Mr. Rohit Ahuja, D.A.G., Punjab.

CM-4012-LPA-2029 in LPA-1784-2019
CM-4013-LPA-2029 in LPA-1785-2019
CM-4019-LPA-2029 in LPA-1788-2019

Heard.

For reasons mentioned in the applications and arguments
addressed, delay of 54 days in filing of these appeals is condoned.

Applications are disposed of accordingly.

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1. This order shall dispose of LPA-1784-2019, LPA-1785-2019 and LPA-1788-2019, which are taken up together for adjudication and decision at request and with consent of learned counsel for parties as all the three appeals arise out of common impugned order dated 24.07.2019, passed by learned Single Bench whereby three writ petitions filed by present appellants were dismissed.

2. Learned Single Bench referred to facts in CWP-18636-2019. Petitioner in CWP-18636-2019 served the Indian Army from 19.11.1963 till 30.11.1987. After his discharge from Indian Army said writ petitioner was recruited as Peon with the State of Punjab on 19.12.1990, from where he retired on 30.11.2005 on attaining the age of superannuation. He was in receipt of separate pension from the Indian Army as well as State of Punjab for the period of service rendered by him with respective establishments. It is a matter of record that all appellants-writ petitioners had been serving the Indian Army since prior to the period of Second National Emergency. Admittedly, after a period of three years of discharge from the Indian Army, appellants-writ petitioners were recruited as Peon, JBT Teacher and Patwari, respectively, with the State of Punjab. All of them are in receipt of pension from the Indian Army for the period they had served. They are also in receipt of pension for the period they had served the State of Punjab. Facts of appellants-writ petitioners in the other two matters are not being referred to separately, as it is conceded position that all of them had served the Indian Army prior to the period of Second National Emergency. All the appellants-

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writ petitioners raised their claim for grant of benefit of the period, during which they served the Indian Army from 03.12.1971 till 25.03.1977, to be treated as qualifying service for computation of pension. All of them are aggrieved of rejection of their claim for not providing benefit of service rendered by them during Second National Emergency specifically the action of not taking into account the said service to be qualifying service for computing pension by the State of Punjab and thereby not including the said benefit in quantum of their pension. Upon their claim not being accepted, above said three separate writ petitions were filed.

3. Learned Single Bench on considering the material on record, facts and circumstances, found no ground to interfere and writ petitions were dismissed. It was held that claim set up by appellants was misplaced in view of specific provisions of Section 8-B of Punjab Recruitment of Ex-Serviceman Rules, 1982 (for short Rules, 1982). Aggrieved therefrom present appeals have been filed.

4. Learned counsel for appellants-writ petitioners vehemently argues that learned Single Bench has not considered the controversy in its correct perspective. While submitting that no claim is raised in respect to increments as provided for in Rule 8-B(a) of Rules, 1982, appellants are entitled to counting of their service during the period of Second National Emergency i.e. from 03.12.1971 to 25.03.1977, for computing their pension, which is being given by the State of Punjab. It is further submitted that State of Punjab by way of said Rules intended to confer specific benefit to its employees of the Ex-Serviceman category, for the service they had rendered during the period of First National Emergency as well Second National

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Emergency. Appellants have not received said benefit despite specific Rule in this respect. It is, thus, prayed that these appeals be allowed and impugned order dated 24.07.2019 be set aside.

5. Learned counsel for the State has opposed the appeals while submitting that impugned order has been correctly passed after proper appreciation of statutory provision and various judicial precedents. Dismissal of appeal is sought.

6. We have heard learned counsel for parties and have gone through the file.

7. At the outset, it is useful to refer to Rule 8-B of Rules, 1982, which reads as under:-

“8-B, Increments and pension - Period of military service rendered during the Second National Emergency from 3rd December, 1971 to 25th March, 1977, shall count for increments and pension as under :-

(a) **Increments** -The increments for the aforesaid service shall be paid to those persons only, who joined and rendered service during the aforementioned period. This benefit will, however, be given at the time of making first appointment on regular basis on a civil post or service under the Government. However, these increments will be taken into account when the pay of a person is subsequently fixed on account of his promotion, selection and new recruitment or revision of pay scale or otherwise;

(b) **Pension** - The period of military service, referred to above, shall count towards pension only in case of an appointment to a permanent post under the Government, subject to the following conditions namely:-

(i) The person concerned should not have earned a pension under military rules in respect of the military service in question,

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(ii) Any bonus or gratuity paid in respect of military service by the defence authorities shall have to be refunded to the State Government, and;

(iii) The period, if any, between the date of discharge from military service and the date of appointment to any service or post under the Government shall count for pension, provided such period does not exceed one year. Any period exceeding one year but not exceeding three years may also be allowed to count for pension in exceptional cases under the orders of the Government.

"These benefits shall be available to all the persons who were appointed in Government Service against reserved vacancies and were in Service as on 1st December, 2011 or are appointed thereafter:

Provided that these benefits shall be admissible for pay fixation on national basis with effect from 1st January, 2012 and arrears on account of pay shall not be paid."

10. It is a matter of record that appellants in all the three appeals are in receipt of pension for military service which they rendered, including the period of Second National Emergency from 03.12.1971 to 25.03.1977. It is correctly held by learned Single Bench that the relief as claimed for is not admissible under the applicable Rule because appellants are concededly getting pension from the Armed Forces for the very period which they want to be taken into account by respondent-State for computing pension, which is being paid to them for their service on the civil post. Trite, it is, that an employee is not entitled to such benefit for same period of service and the applicable rule specifically provides that such a benefit would not be available. Bare perusal of Rule 8-B(b) makes it apparently clear that three

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conditions as stipulated thereunder have to be fulfilled by the employee for conferment of the benefit in question. Reference by learned counsel for appellant to decision dated 13.11.2014 in the case of of '**Rajinder Singh Vs. State of Punjab and others**' in CWP-17661-2013 and connected matters is of no avail. As per said decision, it was held that Ex-serviceman who had joined and rendered service during the period of Second National Emergency only, were entitled to benefit of increments as provided in Rule 8-B and that in so far as benefit of pension is concerned, it was inconsequential whether Ex-serviceman had joined military service during the period of Second National Emergency or not. Said question is not even involved for adjudication in the present appeals. Decisions of this Court attached as Annexure P-5 and P-6 are not related to the controversy at hand. We have also perused decision dated 19.11.2024 by Co-ordinate Bench in CWP-27842-2018, titled '**Kamikar Singh and another Vs. State of Punjab and others**' and other connected petitions but the same also does not come to the rescue of appellants. It has been held in decision dated 19.11.2024 that stipulation of serviceman having joined the civil posts within one year/three years of his discharge works to their detriment, therefore, provisions in Clause 8-B(iii) were read down. In the present matters all the appellants, it is reiterated, are in receipt of pension from the Armed Forces for the period of services rendered by them and are also in receipt of pension from the State of Punjab for the service rendered by them upon the civil posts.

11. Learned counsel for appellants is unable to point out any infirmity, irregularity or perversity in the impugned order dated 24.07.2019, passed by learned Single Bench, which is accordingly upheld.

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12. No other argument has been addressed.
13. Keeping in view the facts and circumstances as above, all three appeals are accordingly dismissed with no order as to cost.
14. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

04.04.2025
Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No