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**(2014) 07 P&H CK 0209**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 5414 of 2013 (O&M)**

Gajraj Singh

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 15-07-2014

**Acts Referred:**

**Citation :** (2014) 07 P&H CK 0209

**Hon'ble Judges :** Hemant Gupta, J; Fateh Deep Singh, J

**Bench :** Division Bench

**Advocate :** R.S. Sihota, Senior Advocate and B.R. Rana, Advocate for the Appellant; Karminder Singh, Advocate for the Respondent

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## Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to an order passed by Armed Forces Tribunal, Chandigarh Regional Bench at Chandimandir (for short "the Tribunal") on 09.05.2011 whereby a Civil Suit filed by the petitioner before the Civil Judge (Junior Division), Rewari, transferred to the Tribunal, was dismissed.

2. The petitioner served in Indian Navy from 21.07.1959 to 12.07.1971 and was placed in Indian Navy Fleet Reserve w.e.f. 17.09.1970 for a period of 10 years. The eligibility to earn pension in terms of Regulation 78 of Navy (Pension) Regulations, 1964, is 15 years. The petitioner claimed that he is entitled to pension keeping in view his 10 years of service in the Indian Navy Fleet Reserve in addition to the colour service from 1959 till 1971.

3. A perusal of the communication dated 07.05.1973 (Annexure P-4) shows that the money order amounting to Rs. 112.21p was sent to the petitioner as a retaining fee through money order and the money order was returned undelivered by the Postal Authorities with remarks "Left".

4. Still further record shows that the petitioner received the order of discharge dated 07.06.1973 (Annexure P-6) which is evident from his communication dated 16.07.1973 (Annexure P-7). Even though, the petitioner was discharged but

grievance in respect of pension was raised only in the year 2009. The petitioner has not completed 15 years of total service in the Navy and also as a Reservist prior to his discharge.

5. The argument is that the discharge was not legal and was on wrong assumption that the petitioner has left India, therefore, the entire period of 10 years as Reservist is to be counted as service admissible for determining eligibility for pension. It is argued that in response to the information sought under the Right to Information Act, 2005, it transpires that the local Police Authorities have made effort to know the whereabouts of the petitioner from 16.04.1973 to 18.04.1973. The Superintendent of Police (S.P.) Mahendragarh has informed that they have failed to find out the whereabouts of the petitioner. Such communication was received on 26.04.1973. The petitioner also referred to a report from Station House Officer, Police Station, Khol, dated 16/17.04.1973 that information with respect to Sh. G.S. Yadav, resident of Mandola, with respect to his name, parentage and caste be entered so that orders can be complied with. On the basis of such information it is sought to be contended that there was no communication received by the petitioner from the Naval Authorities in respect of cessation of service giving rise to cause of action to dispute his discharge as a Reservist. It is sought to be argued on that information that failure to find out the whereabouts cannot lead to inference that petitioner was not available for discharging the duties as a Reservist.

6. Learned counsel for the petitioner could not dispute the fact that his address after discharge from Navy was that of his village. The money order in respect of his retaining fee was returned with the remarks that he has left. Though, the argument of learned counsel for the petitioner is that remarks "Left" does not mean that he has left India but the fact remains that money order was not delivered to the petitioner. But the fact remains that after the said communication, the order of discharge has been served upon the petitioner. But still, the petitioner has not disputed his discharge for almost 26 years as he filed suit only in the year 2009. Since the order of discharge of service of the petitioner as a Reservist was passed in the year 1973, the cause of action to dispute his discharge arose in the year 1973, which was required to be challenged within three years. Such is the judgment of the Hon'ble Supreme Court in State of Punjab and Others Vs. Gurdev Singh,

7. Though the petitioner firstly submitted his representation in the year 1990, but submission of the representation does not start fresh period of limitation. Even from the date of representation, the suit was filed almost 19 years later on 26.08.2009. Such suit is clearly barred by limitation as the cause of action arose to the petitioner in the year 1973. The learned Tribunal has rightly dismissed the petition as the same was being barred by limitation.

8. We do not find any illegality in the order passed by the Tribunal which may warrant interference in exercise of writ jurisdiction of this Court.

9. Dismissed.