

(2020) 08 SHI CK 0398
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 4432 Of 2019

Satish Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 28-08-2020

Acts Referred:

Demobilized Armed Forces Personnel (Reservation Of Vacancies In The Himachal Pradesh State Non-Technical Services) Rules, 1972 — Rule 5(1)

Citation : (2020) 08 SHI CK 0398

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Onkar Jairath, Somesh Raj, Dinesh Thakur, Sanjeev Sood

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. The petitioners before this Court are Ex-Servicemen, who in terms of Clause 5 (1) of the Demobilized Armed Forces Personnel (Reservation of Vacancies in the Himachal State Non-technical Services) Rules, 1972 (hereinafter referred to as '1972 Rules' for short), are entitled for grant of benefit of approved military service to be counted for the purpose of fixation of pay in civil employment, on the strength of active military service rendered by them. The issue is no more res integra and the case of the petitioners is squarely covered by the judgment passed by this Court in CWP No. 4654 of 2013, titled as Avtar Singh Dyal vs. H.P. State Electricity Board Ltd. and connected matter, decided on 26.11.2014 and CWPOA No. 231 of 2019, titled as Sh. Amar Nath and others vs. State of Himachal Pradesh and others and the connected matter, decided on 15.07.2020.

2. I have heard learned counsel for the parties and have also gone through the pleadings as well as the documents appended therewith.

3. The issue involved in this writ petition is no more res integra, as the same has been settled by this Court in CWP No. 4654 of 2013, titled as Avtar Singh Dyal

Vs. H.P. State Electricity Board Ltd., CWP No. 4708 of 2013, titled as Salinder Singh Vs. H.P. State Electricity Board Ltd. & Ors. and CWPOA No. 231 of 2019, titled as Sh. Amar Nath and others Vs. State of H.P. and others.

4. The law, which stands laid down by this Court in the said judgments is that Ex-servicemen are entitled for the benefit of counting of past military service for the purpose of fixation of pay in Civil employment under Sub-Rule (1) of Rule 5 of the 1972 Rules (supra).

5. The contention of learned Additional Advocate General that the said right shall accrue upon the petitioners only after Annexure A-5 came into force is totally misconceived, because the benefit of counting of past military service was a part of the original Rules itself, as it was incorporated in the 1972 Rules and in V.K. Behal's judgment (supra), this part of the Rules was not set aside by the Hon'ble Division Bench of this Court. The Notification Annexure A-5 is nothing, but an act of the State to bring the 1972 Rules in harmony with the judgment passed by this Court in V.K. Behal's case, as upheld by the Hon'ble Supreme Court. However, the same does not takes away the right which already stands conferred upon an Ex-serviceman of counting of past military service for the purpose of fixation of pay in civil employment, as from the date of initial appointment by making it prospective as per Notification Annexure A-5. This issue has also been elaborately dealt with by this Court in CWPOA No. 231 of 2019, titled as Sh. Amar Nath and others Vs. State of H.P. and others.

6. Accordingly, in view of the observations made hereinabove, this petition is allowed and it is directed that pay of the petitioners shall be fixed by taking into consideration the approved active military service rendered by them as from the date of their initial appointment. Miscellaneous applications, if any, also stand disposed of.