

(2012) 06 SHI CK 0087
In the High Court Of Himachal Pradesh
Case No : CWP No. 3179 of 2011-D

Sh. Bains Parshad

APPELLANT

Vs

H.P. Road Transport Corporation

RESPONDENT

Date of Decision : 16-06-2012

Acts Referred:

Citation : (2012) 06 SHI CK 0087

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Archana Dutt, for the Appellant; Adarsh Sharma, for the Respondent

Judgement

Justice Sanjay Karol, J.—The petitioner has prayed for the following reliefs:- i). That the respondent Corporation may kindly be directed to count the military service rendered by the petitioner for the purpose of seniority, fixation of pay and for retiral benefits in the interest of justice and fair play.

ii) That the respondent Corporation may also be directed to allow the petitioner to deposit the benefits received from the Army Authorities.

It cannot be disputed that petitioner has rendered service in the armed forces. He was employed with the respondent in the month of February, 1999 and prior thereto, he had rendered service in the Indian Army for a period of 15 years. Petitioner served a legal notice, calling upon the respondent to allow him to get pensionary benefits of his retirement from HRTC by counting the service rendered by him in the armed forces. Since respondent did not take any action, petitioner was constrained to file the present petition.

2. Rule 19 of the Central Civil Services (Pension Rules) 1972 clearly stipulates that the authorities issuing an order of substantive appointment to a civil service or a post, along with the order require in writing the employee to exercise the option within a period of three months from the date of issue of the order, calling upon the employee to continue to draw monetary pension or the pension due and admissible to the employees of the new institution. The rule mandates the

employer to give an option to the employee.

3. Now in the instant case, the respondent did not give any offer to the petitioner to enable him to exercise the option as is so stipulated under Rule 19 of the Pension Rules. It was obligatory on the part of respondent-Corporation to have so done. No doubt, for the first time petitioner asked the respondent-authorities to allow him to deposit the amount as also count services rendered by him in the Indian Army in the year 2009 but then this fact alone would not defeat the petitioner's statutory rights or in any manner condone the default on the part of the respondent-authorities. With the aforesaid observations, present petition is allowed and respondent is directed to count the period of service so rendered by the petitioner with the Indian Army for the purpose of retiral benefits. All consequential action be taken. Petitioner is directed to deposit the amount along with the interest as is so required to be deposited in accordance with the Rules within a period of four weeks and respondents are directed to take all consequential action within a period of three months thereafter. All monetary benefits shall be disbursed to the petitioner within the aforesaid period, failing which, then thereafter, petitioner shall be entitled to interest at the rate of 9% per annum which shall be personally recovered from the erring official(s).

With the aforesaid observation, present petition is disposed of, so also the pending application(s), if any.