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**(1989) 12 P&H CK 0012**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Letters Patent Appeal No. 457 of 1986

The State of Punjab and Another

APPELLANT

Vs

Niranjan Singh Sekhon, Junior Auditor Punjab Roadways

RESPONDENT

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**Date of Decision :** 14-12-1989

**Acts Referred:**

Punjab Government Services (War) Amendment Rules, 1943 — Rule 6

**Citation :** (1990) 97 PLR 523

**Hon'ble Judges :** K.P. Bhandari, J;J.V. Gupta, J

**Bench :** Division Bench

**Advocate :** M.L. Sarin,A.A.G. and Jaishree Thakur, for the Appellant; Gurcharan Singh, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.P. Bhandari, J.—This is a letters patent appeal on behalf of the State of Punjab against the judgment and order passed by the learned Single Judge of this Court.

2. The material facts of the case are as follows :--

The respondent-writ petitioner served the Army from 11-10-1941 to 25-8-1947. On release from the Army, he was appointed a temporary Clerk in the office of the Deputy Commissioner, Ludhiana, on 25-9-1947, Thereafter, he was offered appointment in the Punjab Roadways as Junior Clerk as war-service candidate He was confirmed on this post on 2010-1959 The petitioner earned two appointments, firstly as Assistant Accountant and thereafter as Junior Auditor

3. The petitioner represented to the Government for the grant of war-service benefit according to the provisions of Rule 6 of the Punjab Government Services (War) Amendment Rules, 1943 (herein referred to as the Rules). The State granted him benefit of war service towards increment and pension. However, he was not granted the benefit of war-service towards seniority. The State has rejected the claim of the petitioner on the ground that no post was kept reserved for war-service candidate in the omni-bus service, Amritsar, which later on

became Punjab Roadways. It was also the stand of the State that if at all the petitioner was entitled to the benefit of war service, he could only claim it on his first appointment in the office of the Deputy Commissioner, Ludhiana which post he joined on 25-9-1947

4. The learned Single Judge examined the points raised by the State and came to the conclusion that there is no merit in either of the contentions raised by the State. The learned Single Judge, while dealing with the first point, came to the conclusion that under the Rules, there is no provision for reservation of post for war service candidates. The question to be considered, according to the learned Single Judge, is whether the candidate concerned has rendered war service. If he has done so, then according to the Rules he has to be allowed the benefit of war service.

5. While dealing with the second contention, the learned Single Judge came to the conclusion that the post held by the, petitioner in the Deputy Commissioner's office was a temporary appointment and therefore, there was no question claiming the benefit of war-service towards seniority in that post. The petitioner had been confirmed in the Punjab Roadways and, therefore, he was entitled to the war-service benefit in this Department. The counsel for the State repeated the same contentions before us. The relevant provision of Rule 6 of the War-Service Rules, which regulates the grant of seniority to the War -service candidates, reads as follows :-

"Every candidate with war service who is appointed to a Punjab Government Service shall be assigned a place in the cadre of such services, which shall be fixed with due regard to his age and the period allowed to be deducted under Rule 5 and shall be as nearly as may correspond with the place which he would have had if the war has not intervened and he had qualified in the normal way. The seniority inter se of all candidates so appointed to a cadre shall be determined by their ages irrespective of the class of war service rendered by each of them."

6 We have carefully considered the matter. A bare reading of the provisions of Rule 6 clearly indicates that a candidate who has rendered war service is entitled to the benefit towards seniority. The benefit given by Rule 6 cannot legitimately be denied to the petitioner. The provisions of Rule 6 of the Rules do not provide either for reservation of posts for war-service candidates or for the grant of war-service benefit on temporary appointment. We are in entire agreement with the view taken by the learned Single Judge that the contentions raised by the State have no merit

7. The learned Single Judge has come to the conclusion that the persons similarly placed have been granted the benefit of war service. We are in entire agreement with the view expressed by the learned Single Judge on this aspect of the case as well.

8. In view of the above, this letters patent appeal is dismissed with no order as

to costs.

9. We direct the respondent State to grant the petitioner the benefit of war service towards seniority, consider him for promotion from the date the promotion was due to him and grant him all consequential benefits within three months from the date of this order.