

(2008) 12 P&H CK 0164

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 16372 of 2001

Mukand Singh

APPELLANT

Vs

Punjab Agricultural University,
Ludhiana and another

RESPONDENT

Date of Decision: Dec. 1, 2008

Acts Referred:

- Punjab Civil Services Rules - Rule 7.23

Citation: (2009) 120 FLR 923

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: Sharawan Sehgal, for the Appellant; Deepak Agnihotri, for the Respondent

Final Decision: Allowed

Judgement

Kanwaljit Singh Ahluwalia, J.

Present writ petition has been filed by Mukand Singh. He is aggrieved against the impugned order (Annexure P-6) passed by the respondent University. A perusal of Annexure P-6 shows that Punjab Agricultural University has issued instructions to the Assistant General Manager, State Bank of India that due to change of pensionary benefits, pension be given after making adjustments and it was ordered that the pension, which is being received by the Petitioner from the Defence Department for rendering military service, be deducted from the pension, to which Petitioner was entitled for rendering service in the Punjab Agricultural University.

2. Petitioner joined Indian Army on 21st February, 1963. He retired from military on 31st May, 1978 after having rendered 15 years service. Thereafter, he was employed as Driver in Punjab Agricultural University on 21st October, 1978 and he took premature retirement on 30th April, 2000. Petitioner is aggrieved against the action of the respondent, whereby the University deducted pension received by him from military service, out of the pension which was being disbursed by the University.

3. Notice of motion was issued. University has filed reply. It has been stated in para 7 as under:

"7. That in reply to para 7, it is submitted that pension payable by PAU, as Rs. Rs. 2227/- was rightly calculated. Out of this amount a sum of Rs. 1275/-, which the petitioner had been receiving from Defence Department was deducted in accordance with the provisions of Clause 8.8 of the Pension Statutes and Rule 7.23 of the Punjab Civil Services Rules Volume II. Even though the petitioner had served the PAU only for 50 Half years, yet his pension was calculated on the basis of 66 Half years. The formula prescribed by the aforesaid rules is as under:--

Service rendered in on from 21.10.1978 to 30.4.2000 Benefit of Vol. retirement under Clause 3.12:	21 Yrs	6 Months	11 Days
	3 25 Or 50 Half Years	6 0	1 12

Average emoluments for pension under Clause 1.5 (iv):--

1.7.99 to 31.1.99 @ 5800 x 6 = 34,800 1.7.2K to 30.4.2K@ 6000 x 4 = 24,000 58,800:- 10 = 5880/- p.m.

Pension fixed: $5880 \times 50 = \text{Rs. } 2227/-$ w.e.f. 1.5.2000: 2×66

(-) Rs. 1275/- (Pension being Rs. 952/- received from Defence Deptt.)"

4. Counsel appearing for the petitioner has stated that the University has wrongly applied Rule 7.23 of the Punjab Civil Services Rules. He has stated that in this case, Rule 7.19 of section III shall be applicable. The same read as under:

Section III Re-employment of Military Pensioners

[7.19 The rules in section II of this Chapter do not apply to a Military Officer, Departmental Officer, Warrant Officer or Non-Commissioned Officer or Soldier, who is taken into or allowed to continue in Civil employment after he has been granted a pension under Military Rules. His pension for service in his Civil Department will not be affected by his military pension.]

5. He has stated that Rule 7.23 is not applicable, as that is only in relation to the civil servants.

6. Mr. Agnihotri has read before me the "Statute regarding Pension and Provident Funds & Pension Rules" of Punjab Agricultural University. He has stated that reliance can be placed upon Rule 8.8, which is regarding deduction of compensation of invalid pension for the persons, who have been re-employed in pensionable service. He has stated that the rules have been adopted from Punjab Civil Service Rules (Volume II). It will be apposite here to reproduce para 1.7 of the Pension Rules of the University, which reads as under:

1.7 All matters pertaining to grant of pension to the retirees of the University (Except those which have been specifically provided in the Pension Statutes) would be regulated in accordance with the Punjab Government rules / instructions as amended from time to time or as modified by the Vice-Chancellor consistent with the provisions of the Act or keeping in view the activities/character of the University.

7. Punjab Government had enacted Rule 7.19 only to give impetus and benefits to the military service. Therefore, it has been held that a person retired from military service shall be entitled to military pension along with the pension, which he earns in his own right for rendering service. Present petitioner has served in military for 15 years and thereafter, he served in Punjab Agricultural University for 21 years. Therefore, in view of the rules of the Punjab Government, which have been adopted by the Punjab Agricultural University, petitioner cannot be denied benefit of military pension and the same cannot be deducted. Therefore, the action of the University, whereby military pension was deducted from the pension computed and calculated by the University, is held to be bad. Petitioner will be entitled to both, the military pension as well as the pension for service rendered to the University.

8. Therefore, present writ petition is disposed off in above terms.