of the allegations reproduced in para 2 above, makes it abundantly clear that the allegations are vague and general in nature. Such allegations have been consistently disregarded by the Courts. Mr. Ghuman submits that the family members had demanded Rs. 50,000 to send the petitioner abroad. Thus, the petitioner can be prosecuted under Section 4 of the Dowry Prohibition Act. This allegation is absurd on the face of it. The petitioner married Jeevjot Kaur on 1st January, 1997. He left for England in May, 1997. It is incomprehensible that the petitioner would make the demand for Rs. 50,000 from the complainant, when he could just as easily make the same demand from his own in-laws. I am of the considered opinion that the petitioner has been roped in, merely to put pressure on the husband. The petitioner came to India on 4th March, 1998. He gave an application to the Superintendent of Police on 12th March, 1998 for protection against fake implication. Within three days, the FIR has been lodged. He was put behind bars for some time. His passport is still in the custody of the police. He is unable to travel to England. I am of the considered opinion that the facts of this case clearly fall within the ambit of guidelines No. 1 and guideline No. 7 given in the case of Bhajan Lal *(supra)*. Even till this date, the husband is prepared to live with the wife. On that basis from the record, it seems that this Court had called the parties in court. On 7th December, 1999, it is recorded that the wife who is present in court states that she is not willing to go to live with her husband.

(22) In view of the above, I find that the continuation of the proceedings would be complete abuse of process of the Court. Both the petitions are allowed. FIR No. 68, dated 15th March, 1998, registered at P.S. Kotwali, Bathinda, is hereby quashed qua the petitioner. Further proceeding on the basis of the charge framed by virtue of order, dated 21st July, 1998, are also quashed qua the petitioner. No order as to costs. A copy of the order may be given dasti.

S.C.K.

Before R. S. Mongia & K.C. Gupta, JJ

RAGHBIR SINGH,—*Petitioner*

versus

UNION OF INDIA & OTHERS,—*Respondents*

C.W.P. No. 717/C OF 1998

The 24th August, 2000

Constitution of India, 1950—Art. 226—Punjab Government National Emergency (Concession) Rules, 1965—Rls. 2 to 4—Petitioner

joined Civil Post after rendering military service during the period of first emergency—U.T. Administration giving benefit of military service to him for the purpose of fixation of pay but denying the same for the purpose of seniority—1965 Rules continued to apply in U.T. even after 1st November, 1966—Petitioner also entitled to the benefit of military service towards fixation of his seniority.

[Dayanand v. *Union of India & others, 1995 (1) SLR 1 (S.C.), followed]*

Held that the Punjab Government National Emergency (Concession) Rules, 1965 continued to apply in the Union Territory of Chandigarh even after 1st November, 1966 till modified, changed or repudiated by the U.T. Administration and they continued to apply to the employees appointed in the U.T. after 1st November, 1966 who were eligible for the benefit of those rules. This is so because these rules relate to matters for which the Central Civil Services Rules were not applied to employees in Class II, III and IV posts. Apart from the facts, we are unable to appreciate the stand of the counsel for the respondents that for the purpose of fixation of pay the petitioner had been held entitled to the benefit of military service but for the purpose of seniority he is being denied to the same. Hence, we allow this writ petition and direct the respondent to count military service of the petitioner rendered by him during emergency for the purpose of seniority and for all consequential benefits.

(Paras 6, 7 & 8)

Constitution of India, 1950—Art. 226—Petitioner challenging non-grant of benefit of military service towards fixation of his seniority—Whether by grant of such benefit persons likely to be affected are necessary parties—Held, no—However, such persons can challenge the action before an appropriate forum.

Held that the persons from whom the petitioner is likely to become senior by virtue of the counting of the military service need not be arrayed as respondents. Whether a particular individual is entitled to military service benefits or not is a list between that individual and the State authorities. If the person is entitled under the Statute to the grant of a particular benefit then he would be given that benefit without hearing the person from whom by virtue of the benefit of military service, he may become senior. No doubt such person can challenge the action before an appropriate forum regarding the grant of military service benefits.

(Para 7)

Bhim Sen Sehgal, Advocate, *for the petitioner.*

H.S. Dhindsa, Advocate, *for the respondents.*

R.S. Mongia, J. (Oral)

(1) Petitioner had joined the Armed Forces during the period of first emergency on 28th March, 1964 and after being discharged from the Armed Forces, he joined the civil service in the Union Territory, Chandigarh, as Junior Engineer (Mech.) on 21st May, 1982. The pertitioner claims the benefits of the military service rendered by him during the period of emergency i.e. upto 10th January, 1968 for the purpose of fixation of pay and seniority etc. under the Rules known as Punjab Government National Emergency (Concession) Rules 1965 (hereinafter referred to as 1965 Rules). This Court took the view in civil writ petition 3228 of 1970 and L.P.A. No. 1064 of 1982 that to the employees who are employed in the Union Territory, Chandigarh after 1st November, 1966, benefits of the military service under 1965 Rules cannot be given. On the basis of these judgments the Union Territory Administration issued a circular dated 2nd June, 1992, copy annexure R-4 with the written statement that the benefits of military service under 1965 Rules, need not be granted to those employees who had joined the Union Territory service after 1st November, 1966. However, the issue of applicability of 1965 Rules was challenged by the affected employees in the Supreme Court by way of S.L.P.s No. 15536 of 1992, 8218, 8219 and 8220 of 1995 etc. The Apex Court held that 1965 Rules will keep on applying to the employees of the Union Territory Administration even if employed after 1st November, 1966 till 1965 Rules were repealed/modified by the U.T. Administration or the Parliament for their application to the U.T. employees. In view of the Apex Court judgment another clarificatory instruction was issued by the U.T. Administration on 11th December, 1965, copy annexure P-2, by which the earlier circular dated 2nd June, 1992 was withdrawn and it was laid down that even if a person is employed after 1st November, 1966, he would be entitled to the military service benefits under 1965 Rules.

(2) It may be observed here that the petitioner has been given the benefits of military service rendered by him during the emergency for the purpose of fixation of pay as is evident from Annexure P-3 which is an office order dated 20th September, 1996. However, the benefit of military service has not been granted to the petitioner towards fixation of his seniority. The petitioner approached the Central Administrative Tribunal, Chandigarh Bench for the aforesaid relief but he has been non-suited on the ground that necessary parties likely

to be affected by the grant of military service benefits towards seniority are not before the Tribunal.

(3) We have heard the learned counsel for the parties.

(4) Leanred counsel for the respondents argued that in fact the petitioner having been appointed after February, 1982, when 1965 Rules were repealed by the State of Punjab, he is not entitled to the benefits of military service under these Rules. He also reiterated that necessary parties likely to be affected were not before the Tribunal and therefore, the Tribunal rightly non-suited the petitioner.

(5) So far as the first point regarding repeal of 1965 Rules by the State of Punjab in February 1982, is concerned, it need not detain us because of the judgment of the Apex Court in *Dayanand* vs. *Union of India and others* (1) wherein the issue under consideration was as follows :—

> "The question for consideration, therefore, is whether the 1965 Rules were modified, repudiatd or repealed in their applicability to these employees ?

(6) The employees before the Supreme Court were also the employees of the U.T. Administration who had been employed after 1st November, 1966. While answering the aforesaid question, the Supreme Court observed as under :—

> "5. The answer depends on the construction of Notification Nos. SO 3267, SO 3268 and SO 3269 all dated 1st November, 1966 issued by the Government of India, Ministry of Home Affairs, New Delhi. By Notification Nos. SO 3267, the powers conferred by the proviso to Article 309 of the Constitution on the President of India were delegat to the Administrator of the Union Territory, Chandigarh, to make rules in regard to the matters specified therein which included the method of recruitment to Central Civil Services and Posts (Class II, Class III and Class IV) under his administrative control in connection with the affairs of the Union Territory of Chandigarh and conditions of service of persons appointed to such services and posts for the purposes of probation, confirmation, seniority and promotion. By Notification No. SO 3268 Rules were framed by the President called the

(1) 1995 (1) SLR 1

conditions of Service of Union Territory of Chandigarh Employees Rules, 1966 (hereinafter referred to as 1966 Rules). Rules 2 therein provided that the conditions of service of persons appointed to the Central Civil Services and posts Class II, Class III and Class IV) under the administrative control of the Administrator of the Union Territory of Chandigarh subject to any other provision made by the President was to be the same as the Conditions of Service of Persons appointed to other corresponding Central Civil Services. The remaining part of Rule 2 is not material for the present purpose. In short by virtue of Rule 2, the Rules applicable to the Central Civil Services were made appicable to regulate the conditions of service for such employees. Rule 3 is significant. It reads as under :—

"3. Rules not to apply to matters relating to probation, confirmation, seniority and promotion.

Nothing contained in these rules shall apply to probation, confirmation, seniority and promotion in respect of persons in relation to whom the administrator of the said union territory has been authorised under the notification of the Government of India in the Ministry of Home Affairs No. 12/1/66-CHD (I) dated the Ist November, 1966 to make rules under the proviso to Article 309 of the Constitution"

6. Rule 4 contains the provision for repeal relating to matters for which provision is made in Rule 2. The net result of these rules contained in Notification No. SO 3268 is that employees of the Union Territory to Posts in Class II, Class III and Class IV services under the administrative control of the Union Territory, in respect of whom the rule making power was delegated by the President to the Administrator of the Union Territory were not to be governed by the rules contained in SO 3268 in respect of matters relating to probation, confirmation, seniority and promotion. This is the effect of the combined reading of the two notifications and the express provision made in Rule 3 of the 1966 Rules framed by the President by Notification No. SO 3268. In other words, by virtue of employees holding posts in Class II, Class III and Class IV services in respect of the specified matter. None of the concerned employees in these matters belong to Class I service to whom alone the Central Civil Rules were made applicable by Notification No. SO 3268

in respect of matters relating to probation, confirmation, seniority and promotion. The third Notification No. SO 3269 is to the same effect.

7. It is, therefore, clear that the Punjab Government National Emergency (Concession) Rules 1965 continued to apply in the Union Territory of Chandigarh even after Ist November, 1966 till modified, changed or repudiated by the Union Territory Administration and they continued to apply to the employees appointed in the Union Territory after Ist November, 1966 who were eligible for the benefit of those rules. This is so because these rules relate to matters for which the Central Civil Services Rules were not applied to employees in Class II, III and IV posts. The contrary view taken by the Tribunal and the High Court cannot, therefore, be upheld".

(7) So far as the question of necessary parties not being before the Tribunal, learned counsel for the petitioner has cited *Pritam Chand* vs. *State of Punjab*, (2) in support of the contention that the persons from whom the petitioner is likely to become senior by virtue of the counting of the military service need not be arrayed as respondents before the Tribunal. We agree with the learned counsel for the petitioner. Whether a particular individual is entitled to military service benfits or not is a lis between that individual and the State authorities. If the person is entitled under the Statute to the grant of a particular benefit then he would be given that benefit without hearing the person from whom, by virtue of the benefit of military sevice, he may become senior. No doubt such person can challenge the action before an appropriate forum, regarding the grant of military service benefits. Apart from the facts mentioned above, we are unable to appreciate the stand of the counsel for the respondents that for the purpose of fixation of pay the petitioner had been held entitiled to the benefit of military service but for the purpose of seniority he is being denied to the same.

(8) For the foregoing reasons, we allow this writ petition and direct the respondent to count military service of the petitioner rendered by him during emergency for the purpose of seniority and for all consequential benefits. Let these directions be carried out within a period of six months.

R.N.R

(2) 1979 (3) SLR 302