

*Before A.K. Sikri, Chief Justice, Ranjit Singh &  
Rakesh Kumar Jain, JJ.*

**PUNJAB STATE POWER CORPORATION LTD.,  
JALANDHAR—Petitioner**

*versus*

**WARYAM CHAND—Respondents**

**LPA No. 1042 of 2012**

March 12, 2013

- A. *Letters Patent Appeal - Cl. X - Punjab Government National Emergency Concession Rules, 1965 - RL 8 - Claim to benefits of increments seniority and pension for the Military service rendered during emergency - Petition allowed - Appeal filed - Plea that any increment seniority and pension can only be given to those who joined Armed forces during emergency - Grant of notional seniority by taking into account service rendered in Armed Forces is constitutionally valid - No benefit to be given to those who joined Armed Forces in normal times - Appeal allowed.***

*Held*, that the Court in the case of *Chittaranjan Singh Chima (Supra)* has again referred to *Ram Janam Singh's case (supra)* and has observed that preferential treatment is to be given to those who joined Armed forces during emergency and the grant of notional seniority in civil services by taking into account the service rendered in the Armed Forces is constitutionally valid but such benefit cannot be extended to those who joined Armed Forces during normal times. In view of these authoritative pronouncements by the Hon'ble Supreme Court, especially dealing with the Rules, which are subject matter of issue in the present case, not much scope is left for any further debate.

(Para 17)

- B. *Constitution of India, 1950, Art. 226 - Military Service Rules, 1965 (repealed by 1982 Rules) - RL 2 & 8 - Military Service - Service can be counted only if the person had joined during emergency and not before or after it.***

*Held*, that referring to this Rule, the Hon'ble Supreme Court has held that as per 1965 Rules, the service can be counted only if the person had joined during emergency and not before or after it. Finding that respondent Harbhajan Singh had admittedly joined Army on 13.9.1961 as a Sepoy, the Court has held that he would not be entitled to the benefit of the provisions of 1965 Rules.

(Para 14)

P. S. Thiara, Advocate, *for the appellant.*

(in LPA No. 1042 of 2012)

H.S.Sidhu, Advocate, *for the appellants.*

(in CWP No. 14705 of 2012)

None *for the petitioners.*

(in CWP No. 14705 of 2012)

Tekwinder Singh Rai & Surjit Singh Swaich, Advocates, *for the respondent.*

(in LPA No. 1042 of 2012)

Rajesh Sehgal, Advocate, *for respondent No. 1.*

(in LPA No. 407 of 2012)

Gurinder Pal Singh, Addl.A.G., Punjab, *for the State.*

(in CWP No. 14705 of 2012)

### **RANJIT SINGH, J.**

(1) Wars foisted upon the Country and resultant emergency declared by the Government is long over. The after effects thereof are still continuing. The present two Letter Patent Appeals Nos.1042 of 2012 (*Punjab State Power Corporation Limited, Jalandhar versus Waryam Chand*), 407 of 2012 (*State of Punjab and others versus Smt.Surinder Bajwa and others*) and Civil Writ Petition No.14705 of 2012 (*Piara Singh and others versus State of Punjab and others*) are result of these after effects of war and emergency, which some citizen of this country are left to face. They are those who happen to participate in these wars and are now praying for grant of concessions as promised by the Governments. The Governments are some how seen changing stance leading to spate of litigations.

### **Facts and issues in L.P.A. No.1042 of 2012 (Punjab State Power Corporation Limited, Jalandhar versus Waryam Chand)**

(2) In this L.P.A., erstwhile Punjab State Electricity Board now known as Punjab State Power Corporation Limited has appealed against the judgement of learned Single Judge, allowing benefit to respondent-Waryam Chand in terms of Punjab Government National Emergency Concession Rules, 1965 (for short, "1965 Rules") framed by the State.

(3) Respondent Waryam Chand had served in the Army during the period of National emergency declared pursuant to China and Pakistan aggressions. Respondent had claimed the benefit of increments, seniority and pension for the Military service rendered by him during the emergency. This claim was made in terms of notification issued on 20.7.1965 by the Home Department, pursuant to which the 1965 Rules were framed. Respondent-Waryam Chand was allowed the benefits on 17.11.1982 but these were subsequently withdrawn on 30.9.1987 on the plea that the benefits could apply only to the person, who joined the Army on or after 26.10.1962. This was as per the instructions contained in memo dated 18.11.1968, issued by Secretary, Punjab State Electricity Board.

(4) Learned Single Judge has allowed the claim of respondent-Waryam Chand simply by making reference to the memorandum dated 18.11.1968. The Judge has observed that this memo only refers to the reservation of vacancies for persons who had joined service or who were commissioned on or after 1.11.1962. As per the learned Judge this had nothing to do with the benefits of Military service in the manner these were contemplated under 1965 Rules. On the basis of this finding, the Judge has held that the benefits given to respondent-Waryam Chand could not be withdrawn in the manner as was done through impugned notice dated 30.9.1987. It is, thus, held that respondent-Waryam Chand shall be entitled to the benefit of Military service as per the orders issued already on 17.11.1982. Directions were issued to the appellant to work out the arrears and to pay the same to respondent-Waryam Chand within a period of 12 weeks from the date of receipt of the copy with interest at the rate of 6%. This order of the learned Single Judge is impugned through present L.P.A.

**Facts and issues in L.P.A. No.407 of 2012 (State of Punjab and others versus Smt.Surinder Bajwa and others)**

(5) L.P.A. No.407 of 2012 is filed by State of Punjab and others to impugn the judgement in Civil Writ Petition No.6415 of 2000, vide which the claim of the respondents for grant of Military service benefits stands allowed. Late Rashpal Singh Bajwa had filed the above noted writ petition, which on his death is prosecuted by his wife Smt.Surinder Kaur Bajwa and others. This writ was disposed of in terms of the judgement dated 23.7.1996 passed in Civil Writ Petition No.482 of 1985 alongwith some other connected matters. In this case the counsel appearing for the parties agreed before

the Court that the issue involved in the petition was no more res-integra having been settled by this Court in judgement dated 23.7.1996 passed in Civil Writ Petition No.482 of 1985 alongwith other bunch of writ petitions. This Court in Civil Writ Petition No.482 of 1985 has viewed as under:-

*“.....This matter should not detain us any more as according to me the matter stands settled by the Apex Court in Dhan Singh and Ors. Vs. State of Haryana 1991 (1) SLR 200, in which it was decided that the definition as it stood prior to the amendment by the Haryana Government in the year 1976 an ex-serviceman who might have joined the Armed forces even prior to the declaration of emergency would be entitled to the benefit of Military service rendered during the period of emergency provided he had joined the Civil Service prior to the amendment of 1965 Rules. In Punjab the Govt. has not amended the 1965 rules. This would mean that an employee, who had joined the Military service even prior to declaration of emergency, would be entitled to the benefit of Military Service rendered during the period of emergency in accordance with Rule 4 of the 1965 Rules. This matter was also considered by a Division bench of this Court in which, I was member, in Jamiet Singh Vs. The District & Sessions Judge, 1995 (2) SLR 313.*

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*“For the foregoing reasons, all these writ petitions are allowed and the orders of the respondents State denying the benefit of Military Service to the Petitioners are hereby quashed. The respondents are directed to grant the benefit of Military service rendered by the petitioners during the period of emergency i.e. Between October 26, 1962 to January 10, 1968 under the 1965 Rules and give them all consequential benefits flowing there from.”*

(6) In the judgement impugned in the instant L.P.A, it is also noticed that LPA against the above quoted judgement passed in bunch of writ petitions connected with Civil Writ Petition No.482 of 1985 had also been dismissed by this Court on 27.8.2010. The State of Punjab has accordingly impugned this judgement through the present Letters Patent Appeal.

(7) On 15.1.2013, Letters Patent Appeal No.407 of 2012 filed by the State of Punjab was ordered to be heard with L.P.A. No.1042 of 2012.

**Facts and issues in Civil Writ Petition No.14705 of 2012 (Piara Singh and others versus State of Punjab and others)**

(8) Piara Singh and 18 others retired Head Constables have approached this Court through Civil Writ Petition No.14705 of 2012, praying for quashing Punjab Recruitment of Ex.Serviceman (First Amendment) Rules, 2009 incorporating Rule 8-B (a), (b), (i), (ii) and (iii) respectively. Prayer further is to direct the respondents to issue grant of increment and pension by calculating period, which is 5 years 3 months and 22 days of Military service rendered by the petitioners during second emergency. The issue raised in this writ petition being connected with issues arising in the above noted L.P.A. No.1042 of 2012, this writ petition was also ordered to be heard with the said L.P.A. That is how this writ petition is heard with these L.P.As.

**Discussion:-**

(9) The approach of the counsel for the appellant in L.P.A. No.1042 of 2012 to challenge the judgment is straight and is on the basis of law laid down by the Hon'ble Supreme Court in the case of *State of Punjab and others versus Harbhajan Singh and another (1)*. The counsel would plead that the respondent is not entitled to the benefit of Military service rendered during the period of emergency from 26.10.1962 to 8.1.1968 as he was appointed much prior to the date of declaration of emergency w.e.f. 26.10.1962.

(10) As per the record, the respondent had joined Military service on 13.9.1961, which is a date much prior to the date of proclamation of emergency. When the L.P.A. came up for bearing before a Division Bench on 7.1.2013, judgement in the case of *State of Punjab and others versus Malkit Singh (2)*, was cited, where the Court had viewed that even when a person had joined the service prior to proclamation of emergency, then such service rendered during emergency is to be counted for grant of

(1) (2007) 12 SCC 549

(2) 2011 (2) SCT 40

Military service benefit. Plea is that the Division Bench in the case of *Malkit Singh* (*supra*) was not made aware of the judgment of the Hon'ble Supreme Court in the case of *Harbhajan Singh* (*supra*). The ratio of law in the later case is apparently different than what is held in *Malkit Singh's case* (*supra*). The Division Bench accordingly considered it appropriate to place this L.P.A. before a Full Bench and that is how ultimately all these cases are now being considered by a Full Bench of this Court.

(11) The counsel for the appellant would contend that there being binding precedent available, the judgement passed by the learned Single Judge on the basis of any other view can not be sustained. A detailed reference is made to the view expressed in the case of *Harbhajan Singh* (*supra*), which is read in extenso.

(12) The Hon'ble Supreme Court in this case was considering 1965 Rules framed by the Punjab Government and the question before the Court was exactly the same as is arising in the present cases. The Hon'ble Supreme Court has considered if Harbhajan Singh, who had joined Army prior to proclamation of emergency, would be entitled to count this service for the purpose of pension and other entitlements or not. Harbhajan Singh, respondent before the Supreme Court, had joined the Army on 13.9.1961 and after improving his qualification had been appointed as Education Instructor Havaldar on 12.10.1967. He retired from the Army service in the rank of Naib Subedar on 13.9.1987. He was 43-1/2 years old at the time of his superannuation. He was sponsored by the Employment Exchange for the post of J.B.T Teacher in the Punjab Education Department but the Selection Committee refused to consider his case on the ground that he was not fulfilling the qualification for the post. Subsequently, he again submitted his application on 1.8.1992, pursuant to a fresh advertisement issued by the Education Department, Punjab. He was finally appointed on 31.3.1994. On his superannuation from the service of Education Department on 10.10.2001, said Harbhajan Singh submitted his pension case to the Accountant General, Punjab, who rejected the case on the ground that the service rendered by him in the civil side is 7 years, 9 months and 9 days, which is less than 10 years. It was viewed that the service rendered by said Harbhajan Singh in the defence could not be counted in the civil service as there was a gap of more than 3 years. The respondent then served a legal notice and thereafter filed a writ petition before this Court in February

2003. This writ petition was allowed in terms of the decision in *Dev Dutt versus State of Punjab (3)* and the State was directed to recompute the pension of said Harbhajan Singh. The State accordingly had filed the Special Leave Petition before the Hon'ble Supreme Court.

(13) The plea by the State before the Hon'ble Supreme Court was that ratio of law in the case of *Dev Dutt (supra)* was inapplicable to the facts of the case before the Court, whereas counsel appearing for Harbhajan Singh strongly supported the view expressed by this Court. After recapitulating the service record and the details of the service rendered by the respondent in the Army and the Civil Department, the Hon'ble Supreme Court has noticed that there was no dispute that the respondent was governed by Punjab Recruitment Ex. Servicemen Rules, 1982 (for short, "1982 Rules"). Reference is made to Rule 8 of the said Rules, which deals with increments and pension, which provides that pay of the ex-serviceman appointed against the reserved vacancy shall be fixed in accordance with the provisions of Chapter VII of the Punjab Civil Service Rules, Volume II. While dealing with the issue of entitlement to count the Military Service 1965 Rules (repealed by 1982 Rules) were considered. Rule 2 is noticed, which defines 'Military service' and it reads as under:-

*"2. Definition.- For the purpose of these Rules, the expression 'military service' means enrolled or commissioned service in any of the three wings of the Indian Armed forces (including service as a warrant officer) rendered by a person during the period of operation of the Proclamation of Emergency made by the President under Article 352 of the Constitution on 26th October, 1962, or such other service as may hereafter be declared as military service for the purposes of these Rules. Any period of military training followed by military service shall also be reckoned as military service."*

(14) Referring to this Rule, the Hon'ble Supreme Court has held that as per 1965 Rules, the service can be counted only if the person had joined during emergency and not before or after it. Finding that respondent Harbhajan Singh had admittedly joined Army on 13.9.1961 as a Sepoy, the Court has held that he would not be entitled to the benefit of the provisions of 1965 Rules.

(15) Reference and reliance is placed on the case of **Ram Janam Singh versus State of Uttar Pradesh (4)**. In this case, the Court has observed that it would fail to understand as to how two persons, who joined when emergency was over i.e. after January 1, 1968 and before December 3, 1971, when another emergency was imposed can be treated at par on the same level. The relevant observations may need a notice and are as under:-

*“.....It need not be pointed out that such persons were on the lookout for a career and joined the Armed Forces of their own volition. It can be presumed that they were prepared for the normal risk in the service of the Armed Forces. Those who joined Armed Forces after November 1, 1962 or December 3, 1971, not only joined Armed Forces but joined a war which was being fought by the nation. If the benefits extended to such persons who were commissioned during national emergencies are extended even to the members of the Armed Forces who joined during normal times, members of the Civil Services can make legitimate grievance that their seniority is being affected by persons recruited to the service after they had entered in the said service without there being any rational basis for the same.”*

The Court has further observed that:-

*“Can it be said that the persons who had joined Army after the declaration of emergency due to foreign aggression and those who joined after the war came to an end stand on the same footing? Those who joined Army after revocation of emergency joined Army as a career. It is well known that many persons who joined army service during the foreign aggression, could have opted for other career or service. But the nation itself being under peril, impelled by the spirit to serve the nation, they opted for joining Army where then risk was writ large. No one can dispute that such persons formed a class by themselves and by rules aforesaid an attempt has been made to compensate those who returned*



*from war if they compete in different services. According to us, the plea that even persons who joined army service after cessation of foreign aggression and revocation of emergency have to be treated like persons who have joined army service during emergency due to foreign aggression is a futile plea and should not have been accepted by the High Court. It need not be impressed that whenever any particular period spent in any other service by a person is added to the service to which such person joins later, it is bound to affect the seniority of persons who have already entered in the service. As such any period of earlier services should be taken into account for determination of seniority in the later service only for some very compelling reasons which stand the test of reasonableness and on examination can be held to be free from arbitrariness."*

(16) Similar views are again expressed by the Apex Court in ***Chittaranjan Singh Chima and another versus State of Punjab and others*** (5). In this case, there were two appellants before the Supreme Court, namely, Dalip Singh Sidhu and Chittaranjan Singh Chima. They were enrolled in the Indian Air Force on 7.12.1957 and on 3.9.1959 respectively. They were released in the rank of Sergeant on 25.1.1974 and 31.12.1974 respectively. They joined as Junior Sports Officer of the Punjab Government on 30.9.1974 and 29.10.1976 respectively. They had approached the High Court, claiming the benefit of past service in the Air Force as Demobilized Defence Personnels. The Division Bench dismissed their writ petition while following its earlier judgement in the case titled ***State of Punjab versus Pritam Chand*** (LPA No.401 of 1976). They both had filed Special Leave Petition before the Hon'ble Supreme Court. While dismissing the petition, the Court has held:-

*"The Punjab Government National Emergency (Concession) Rules, 1965, the rules under which the appellants came to be appointed, connoted of the definition of "military service' means enrolled or commissioned service in any of the three wings of the Indian Armed Forces (including service as a warrant officer) rendered by a person*

*during the period of Operation of the Proclamation of Emergency made by the President under Article 352 of the Constitution of the 26th October, 1962 or such other service as may hereafter be declared as military service for the purposes of these rules. Any period of military training followed by military service shall also be reckoned as military service." It would, thus, be seen that for the purpose of military service, it would be an officer enrolled or commissioned in any of the three wings of the Indian Armed Force and rendered service during the period of operation of the proclamation of emergency and such of the military service as may be declared thereafter by the Government for the purpose of the entitlement under the Rule. Since the appellants came to be appointed under this, they have not been given any benefit of reckoning of the military service for the purpose of seniority and consequential benefits in the civil service. 1968 Rules and 1977 Rules contemplate of giving the reservation and also consequential benefit of seniority reckoning the military service to such of those officers who rendered service in the military during emergency with a view to encourage the personnel who come forward to serve the country at the time of emergency. Admittedly, the appellants came to be appointed not during the emergency but in the regular process."*

(17) The Court in the case of **Chittaranjan Singh Chima (Supra)** has again referred to **Ram Janam Singh's case (supra)** and has observed that preferential treatment is to be given to those who joined Armed forces during emergency and the grant of notional seniority in civil services by taking into account the service rendered in the Armed Forces is constitutionally valid but such benefit can not be extended to those who joined Armed Forces during normal times. In view of these authoritative pronouncements by the Hon'ble Supreme Court, especially dealing with the Rules, which are subject matter of issue in the present case, not much scope is left for any further debate. The parties appearing before the learned Single Judge in this case (L.P.A. No.1042 of 2012) apparently did not place these judgements before the Single Judge and accordingly the Court could not take notice of these judgements.

(18) In the judgement impugned in L.P.A. No.407 of 2012, the learned Single Judge has only relied on the decision in Civil Writ Petition No.482 of 1985. Though this case was decided on 23.3.2011, still the judgements in the cases of *Harbhajan Singh (supra)*, *Ram Janam Singh (supra)* and *Chittaranjan Singh Chima (supra)* were not placed before the Judge deciding the writ petition.

(19) The counsel appearing for the respondents in this case has referred to a Division Bench judgement of this Court in the case of *Malkit Singh (supra)* in support of his submissions. No doubt, in this case the Division Bench has held that Rule 4 of 1965 Rules does not restrict the benefit of Military Service to only those military persons who joined the Armed Forces during the period of emergency. Reference is also made to Rule 2, which defines expression "Military service" and it is observed that if a person joined Armed Forces prior to declaration of emergency and continued to serve after its cessation, the period of service rendered by him has to be treated as a Military service and he is entitled to the benefit of that service for the purpose of increments, seniority and pension. While taking this view, the Division Bench has held that *Ram Janam Singh's case (supra)* would not be applicable to the facts of the case in *Malkit Singh's case (supra)*. The case of *Chittaranjan Singh Chima (supra)* is referred to but appears to have been ignored without taking note of the ratio of law laid down in this case. The Division Bench was also not made aware of the case of *Harbhajan Singh (supra)*, where ratio of law in the case of *Ram Janam Singh's case (supra)* as well as *Chittaranjan Singh Chima's case (supra)* was relied. The Division Bench in *Malkit Singh's case (supra)* appears to have been swayed by the amendment of the Rules notified by the State of Haryana, where it was specifically provided that the Military service would mean the service rendered by a person, who had been enrolled or commissioned during the period of operation of proclamation of emergency made by the President under Article 352 of the Constitution of India on October 26, 1962 in any of the three Wings of Indian Armed Forces etc. In *Chittaranjan Singh Chima's case (supra)*, the Supreme Court had considered 1965 Rules promulgated by the State of Punjab. The ratio of law emerging therefrom can not be ignored. This case was noticed but not considered by this Court in *Malkit Singh's case (supra)*. Once this view is reiterated in *Harbhajan Singh's*

*case (supra)*, there will be no scope for this Court to take any contrary view. The decision of the Division Bench in the case of *Malkit Singh (supra)* can not be taken as a good law in view of the clear position of law enunciated by the Hon'ble Supreme Court in *Harbhajan Singh (supra)*.

(20) Perhaps, faced with the above difficulty, the counsel representing the respondents in L.P.A. No.1042 of 2012, took refuge by pleading the doctrine of *per incuriam* and *sub silentio* to get out of the rigors of this judgement. In support, the counsel also placed some judgement before us i.e in the case of *Municipal Corporation of Delhi versus Gurnam Kaur (6)*, *Union of India and another versus Raghbir Singh (dead) by L.Rs etc. (7)*, and few other judgements. There may not be any need to consider these judgments as it will be highly inappropriate for this Court to even consider or comment on the judgment of the Apex Court on these grounds as pleaded. There is nothing available on record for which the submissions on these lines can be advanced by the counsel appearing for the respondent in this case. Article 141 of the Constitution of India clearly provides that the law declared by the Supreme Court shall be binding on all Courts within the territory of India. Accordingly, there would not be much need to consider these submissions made by the counsel for the respondent. This Court is bound to follow the law declared by the Hon'ble Supreme Court as a binding precedent.

(21) One of the plea raised by the counsel for the respondents in L.P.A. No.407 of 2012 is that Rashpal Singh Bajwa, late husband of respondent No.1, was granted the benefit of Military service towards increment and seniority vide Punjab Government memo No.14329-30/E-3 dated 6.5.1991. Thereafter, said Rashpal Singh was given deemed date of appointment and promotion as Assistant Sub Inspector and Sub Inspector vide office order No.77065A-1 dated 29.7.1991. Consequently, he was also given deemed date of promotion in the rank of Inspector and was promoted as D.S.P on 7.12.1989 followed by promotion to the rank of officiating Superintendent of Police on 14.5.1997. His name was also considered by the Departmental Promotion Committee and approved for list F with effect from 13.8.1981. While late Rashpal Singh Bajwa was contesting for implementation of these orders of deemed date of promotion

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(6) (1989) 1 SCC 101

(7) (1989) 2 SCC 754

and had served a legal notice to the Director General of Police for granting deemed date of promotion to the rank of DSP and further promotion to the rank of Superintendent of Police, the appellants allegedly issued order, withdrawing the benefit of Military service. The respondents would attribute malafides to the appellants in this regard. It is alleged that appellant No.4 had passed an order on 25.4.2000 based on the memo issued by the Director General of Police dated 7.3.2000, withdrawing the benefit of military service to late Rashpal Singh Bajwa without issuing any show cause notice and without affording any opportunity of hearing. This was one of the ground raised by late Rashpal Singh Bajwa to challenge the impugned order, withdrawing the grant of Military service benefit to him. During the pendency of writ petition, Rashpal Singh Bajwa had died. Accordingly, the present respondents were brought on record as legal representatives of late Rashpal Singh Bajwa. The counsel, therefore, would plead that the order withdrawing this benefit in this background would be unsustainable as having been made in violation of principle of natural justice. His plea further is that even otherwise the benefits which were granted on the basis of the then prevailing law could not be withdrawn in this manner and that too without adhering to the principles of natural justice. This grievance may appear justified at least so far as withdrawal of Military service benefits are concerned. The respondents, however, have not filed any appeal against the judgment on the ground that this point as raised was not considered by the Single Judge. This may be so because the relief had been granted to the respondents. The judgment in appeal, however, now can not be sustained in view of the detailed discussion noted above. Once the impugned judgment passed by the Single Judge is being set-aside, the only way now left open for the respondent is to challenge the order of withdrawal of Military service benefit in an appropriate legal proceedings.

(22) Now coming to the prayer made in Civil Writ Petition No.14705 of 2012, it is noticed that the petitioners have pleaded for grant of Military service benefit for the period of their service during second emergency. The petitioners in this writ petition have served in the Armed Forces during second emergency which was from 3.12.1971 to 25.3.1977. None of the petitioner had joined the Military service during the proclamation of emergency. These petitioners would pray for grant of Military Service benefit in terms of the definition of term Military service defined in 1965 Rules. Concededly,

1965 Rules were superseded by 1982 Rules. Almost all the petitioners, except one, had joined the service much prior to 1982 Rules came into being. The petitioners are aggrieved by Rule 8-B, which provides that the person who had joined and rendered service during aforesaid period of second emergency only would be entitled to the benefit of the Military service.

(23) Rule 8-B has been introduced on 15.10.2009 in 1982 Rules. Though this amended rule is challenged by the petitioners in this writ petition but this challenge is rendered futile now as this rule has subsequently been further amended in the year 2012. This amendment is perhaps not in the notice of the petitioners. None has appeared to represent the petitioners at the time of hearing.

(24) In the amended Rule 8-B in clause (a) in the second line the words "joined and" have been omitted. The earlier Rule 8-B clause (a) was as under:-

**"8-B. Increments and pension.-**

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*(a) Increments- The increments for the aforesaid service shall be paid to those persons only, who joined and rendered service during the aforementioned period. This benefit will, however, be given only at the time of making first appointment on regular basis on a civil post or service under the Government. However, these increments will be taken into account when the pay of a person is subsequently fixed on account of his promotion, selection, new recruitment or revision of pay scale or otherwise; and".*

The amended Rule 8-B clause (a) would now read as:-

**"8 -B, I n c r e m e n t s a n d p e n s i o nxx**

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*(a) Increments- The increments for the aforesaid service shall be paid to those persons only, who rendered service during the aforementioned period. This benefit will,*

*however, be given only at the time of making first appointment on regular basis on a civil post or service under the Government. However, these increments will be taken into account when the pay of a person is subsequently fixed on account of his promotion, selection, new recruitment or revision of pay scale or otherwise. "*

(25) Thus, the amended Rule 8-B (a) now provides that the increment for aforesaid service shall be paid to those persons only who rendered service during the aforesaid period as words "joined and" have been deleted. What is allowed by this amendment is taken away by introducing another amendment. In clause (b) a further subclause (iii) has been added to provide that :

*"these benefits shall be available to all the persons who were appointed in the Government service against reserved vacancies and were in service as on 1.12.2011 or are appointed thereafter". There is also a proviso under this sub-clause, which states "provided that these benefits shall be admissible for pay fixation on notional basis with effect from 1.1.2012 and arrears on account of pay shall not be paid".*

Accordingly, the benefits which otherwise may have accrued to the petitioners have been taken away by sub-clause (iii) reproduced above.

(26) All the petitioners have retired from service between a period from 2005 to 2010. Thus, in order to get any benefit of the Military service, they may have to challenge the amended rules. There is no such challenge raised. This rule clearly provides that these benefits of increments etc. would be available to all those persons who were appointed in the Government service against reserve vacancies and were in service as on 1.12.2011 or are appointed thereafter. This Rule otherwise, thus, would directly stare at the petitioners and would disentitle them to claim benefits. The relief claimed in the writ petition, therefore, can not be allowed.

(27) As a result of above discussion, L.P.A. No.1042 of 2012 (*Punjab State Power Corporation Limited, Jalandhar versus Waryam Chand*) is allowed and the impugned judgement is set aside. The judgement

impugned in L.P.A. No.407 of 2012 titled (*State of Punjab and others versus Smt.Surinder Bajwa and others*) can not be sustained and the same is also set-aside. However, liberty is given to the respondents in this case to challenge the order, withdrawing the benefit of Military service extended to late Rashpal Singh Bajwa in accordance with law. There is no merit in Civil Writ Petition No.14705 of 2012 (*Piara Singh and others versus State of Punjab and others*) and the same is also dismissed.

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