

**(2020) 10 AFT CK 0003**

**In the Armed Forces Tribunal**

**Case No :** Original Application No. 1358 Of 2020, Miscellaneous Application 1606 Of 2020

Abrar Ali Khan

APPELLANT

Vs

Union Of India And Others

RESPONDENT

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**Date of Decision :** 07-10-2020

**Acts Referred:**

**Citation :** (2020) 10 AFT CK 0003

**Hon'ble Judges :** Rajendra Menon, J;P.M. Hariz, Member (A)

**Bench :** Division Bench

**Advocate :** Manoj Kr. Gupta, Neeraj

**Final Decision :** Allowed

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**Judgement**

M.A. No. 1606 of 2020:

1. Heard learned counsel for the parties on the point of delay. Delay of 9580 days in filing the OA has been explained by the applicant. Keeping in

view the averments made in the MA and finding the same to be bonafide and in the light of the decision in Union of India and others Vs. Tarsem

Singh [2008 (8) SCC 6481, we allow the instant MA and condone the delay in filing the OA.

M.A. No. 1606 of 2020 stands disposed of accordingly.

O.A. No. 1358 of 2020:

2. By way of filing the present OA, the applicant seeks for a direction to the respondents to fix his pension in the rank of Chief Petty Officer

(CP0)/CHELA from the date of his discharge in the light of the order dated 15.07.2020 passed by this Tribunal in Ex CHELP Ranveer Singh Yadav

Vs. Union of India and Ors. [O.A. No. 832 of 2020 dated 15.07.2020], Ex Sub

Gopi Singh Rajput Vs. Union of India and others [O.A. No. 516 of 2020

dated 16.03.2020], Ex Sub Mohar Singh Vs. Union of India and others [O.A. No. 444 of 2015 dated 27.09.2017] and Ex PO Harvinder Singh Yadav

Vs. Union of India and others [O.A. No. 506 of 2018 dated 23.05.2019] and to pay arrears along with interest @ 10% per annum.

3. The applicant joined the Indian Navy on 26.12.1978. He was promoted to the rank of Chief Petty Officer (CPO)/CHELA on 01.07.1993. After

having served in the said rank for a period of about five months, the applicant was discharged from service on 31.12.1993. However, he was

sanctioned pension only in the rank of Petty Officer, on account of which he has been receiving pension in the rank of Petty Officer since the date of

his discharge.

4. Learned counsel for the applicant has brought to our notice Govt. of India Policy dated 09.02.2001, whereby the Ministry of Defence implemented

the recommendations of the 5th Central Pay Commission relating to pensionary benefits in respect of commissioned officers and personnel below

officers' rank. It has been clarified in the said notification that all Alined Forces pensioners, irrespective of their date of retirement, shall not get less

than 50% of the minimum revised scale of pay introduced with effect from 01.01.1996. When it came to the notice that the PCDA, Allahabad was not

extending the said benefit, the Central Government clarified as under:

It is clarified that pension of all pre-96 retiree Armed Forces personnel will be revised on the basis of the rank/group last held by the

individual and the revised pay scale connected thereto, even if the rank/group was held for less than 10 months before retirement. Such

pension will be reduced proportionately if the qualifying service is less than 33 conditions to earn pension apply.

5. We do not find any justification on the part of the respondents in not fixing the pension of the applicant in the rank of CPO/CHELA in accordance

with the relevant Government policies/orders, as he had already been promoted to that rank before the date of his discharge.

6. Since the case of the applicant is squarely covered by the decisions of the Tribunal in JIM P. Gopalakrishnan Vs. Union of India and others 10.A.

No. 62 of 2014 dated 13.02.2015 (Chennai Bench)) and Ex Sub Mohar Singh Vs. Union of India and others [P.A. No. 444 of 2015 dated 27.09.2017

(Principal Bench)], we allow the OA, subject to confirmation of details, directing the respondents as under:

(i) Calculate the pension of the applicant based on the rank of CPO/CHELA, the last rank held by him before his discharge, and in consonance with

the principles of calculation that have been upheld in the case MO Gopalakrishnan (supra) in this regard;

(ii) Issue a fresh PPO for the restructured and revised pension of the applicant in the rank of CPO/CHELA, with effect from the date of his discharge

and pay the arrears of pension within a period of four months from the date of receipt of copy of this order;

(iii) In case this order is not implemented within the stipulated time, the respondents shall pay interest

@ 8% on the arrears till fully paid.

There shall be no order as to costs.