
(2000) 08 DEL CK 0071
In the Delhi High Court
Case No : Civil Writ No. 5133 of 1998

Ex. Comdt. O.P. Rana

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 31-08-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 08 DEL CK 0071

Hon'ble Judges : N.G. Nandi, J

Bench : Single Bench

Advocate : Mr. S.M. Hooda, for the Appellant; Ms. Rekha Palli and Ms. Susmita Lal, for the Respondent

Judgement

N.G.Nandi, J.—In this petition under Article 226 of the Constitution of India, the petitioner has been praying for issue of writ of mandamus requiring the respondents to pay the full pension benefit of 33 years qualifying service w.e.f. 10.6.1991 together with arrears of pension and gratuity after revising the pension.

2. The only question involved in this writ petition is whether the petitioner is entitled to full pension after completing 31 years of service in para military service or not ?

3. The say of the petitioner is that the petitioner joined the civil service on 7.4.1960 in the Intelligence Bureau, Central Government and was granted commission on 3.1.1963 and he served in the military up to 15.9.1967 and on the same day, he was transferred to B.S.F. as Assistant Commandant; that the petitioner was promoted to the rank of Commandant Selection Grade till he retired on 10.6.1991 and that the petitioner was transferred to pension establishment w.e.f. 10.6.1991 after completing the age of 55 years; that the petitioner was granted pension for 31 years without grant- ing any weightage and that the petitioner made representations and approached personally and vide reply dated 28.1.1998, his representation came to be rejected.

4. The respondents vide counter-affidavit refuted the claim of the petitioner inter alia contending that the intervening period in between IB service and Army Commissioned Service (pre-Commission training period) from 4.1.1963 to 29.6.1963 was treated as Dies Non and condoned by the competent authority; that the pre-commissioned training has not been verified by the Army Authority; that the petitioner's pension has been fixed correctly as per Rule 49(2) (b) of CCS (P) Rules, 1972 and that the petitioner's service from 7.4.1960 to 3.1.1963 have been counted towards his pensionary benefit.

5. It is not in dispute that the petitioner served for more than 31 years in the services referred to above and retired from the service at the age of 55 years. In the case of Raghu Nandan Lal Chaudhary and Others Vs. Union of India (UOI), , which relates to the ceiling of qualifying service whether it should be 30 years or 33 years, the Supreme Court held that the petitioner therein had retired at the age of 55 years and the qualifying service for receipt of full pension is 30 years.

6. In the course of arguments, the petitioner placed reliance on the decision in the case of Sant Ram Vs. Union of India & Ors. rendered in C.W.P.4288/94 by the Division Bench of this Court. The learned counsel for the respondents fairly states that the present case is covered by the said judgment of the Division Bench of this High Court. Following the principle laid down in the case of Raghu Nandan Lal Chaudhary Vs. Union of India (Supra) the Division Bench allowed the petition as the petitioner before the Division Bench had completed 30 years and not 33 years of service on his retirement at the age of 55 years and held the petitioner to be entitled to full pension and directed re-fixation of pension entitlement accordingly.

In the instant case, the petitioner has completed 31 years of service and was superannuated at the age of 55 years. The petitioner, following the principle laid down in the case of Sant Ram Vs. Union of India & Ors., (Supra), is entitled to full pension.

In the result, the petition is allowed. The respondents are directed to re-fix the pension entitlement of the petitioner accordingly and pay the arrears of unpaid pension entitlement within a period of three months from today failing which the petitioner would be entitled to 12% interest on the amount entitled to from the date of petition till the payment is made by the respondents. The petitioner is entitled to cost which is quantified at Rs.5000/-.