
(2000) 08 DEL CK 0084
In the Delhi High Court
Case No : Civil Writ No. 3859 of 1998

Ex. Comdt. P.R. Saini

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 0084

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. 1.10.1995 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 33 years of service in para military service or not?

3. The say of the petitioner is that the petitioner was selected for commissioning in the Army and reported to Officer's Training School at Madras on 24.1.1963; that the petitioner completed his training on 12.10.1963 and he was granted commission on 13.10.1963 and was posted at Jat Regiment; that the petitioner was promoted to the rank of Captain and then he was transferred to Border Security Force on 1.7.1968; that the petitioner was promoted to the rank of Commandant in January, 1995 and retired at the age of 55 years and transferred to Pension Establishment w.e.f. 1.10.1995 after completing the age of 55 years; that the petitioner has rendered total service of 32 years, 5 months and 7 days; that the petitioner was granted pension for 32 years of service without granting

any weightage and that the petitioner made representations and approached personally and vide reply dated 19.9.1996, his representation came to be rejected.

4. There is no counter-affidavit filed on behalf of the respondents.

5. It is not in dispute that the petitioner served for more than 32 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 more than 32 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 Union of India & Ors.(Supra), is entitled to full pension.

In the result, the petition is allowed. The respondents are directed to refix 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/-.