

(2022) 02 DEL CK 0226

In the Delhi High Court

Case No : Civil Writ Petition No. 3451 Of 2022

EX-CPL. Om Prakash Pandey

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 25-02-2022

Acts Referred:

Citation : (2022) 02 DEL CK 0226

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Baljeet Singh, Deepika Sheoran, Bhagwan Swarup Shukla

Final Decision : Disposed Of

Judgement

Manmohan, J

C.M.No.10109/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.3451/2022

1. Present writ petition has been filed challenging the order dated 14th January, 2022. Petitioner also seeks a direction to the Respondents to grant Pro-rata Pension from the date of discharge i.e., 11th December, 2007.

2. Learned counsel for the Petitioner states that vide the impugned order dated 14th January, 2022, Petitioner's representation for grant of Pro Rata Pension was rejected on the following grounds:

i) There is no provision for grant of Pro Rata Pension to an Air Man in the Pension Regulations for the Air Force, 1961.

ii) The minimum years of qualifying service for grant of Pro Rata Pension is 15 years, whereas the Petitioner has only completed twelve years, 112 days in

service and was discharged from service under the clause "At his own request before fulfilling the conditions of Enrolment. He was thus eligible for Service Gratuity and Death-Cum-Retirement-Gratuity (DCRG) in terms of Pension Regulation 127, which has already been paid to him at the time of discharge".

iii) Grant of Pro Rata Pension in the orders passed by this Court in other matters are only in favour of the individuals concerned.

3. Learned Counsel for the Petitioner relies upon a decision passed by this Court in Govind Kumar Srivastava Vs. Union of India and Ors. WP(C) 10026/2016 decided on 09th January, 2019.

4. Issue notice. Mr.Bhagwan Swarup Shukla, CGSC accepts notice on behalf of the Respondents-UOI.

5. This Court is of the view that in Govind Kumar Srivastava (supra), it has been conclusively held that the benefit of pro rata pension should be given to PBORs/ NCOs like the Petitioner.

6. In Govind Kumar Srivastava (supra), it has been clarified that the pro rata pension is premised on the fact that the government servant or officer in question has not completed the full period of qualifying service for grant of full pension in terms of the applicable pension rules. Therefore, what is granted is only pension on pro rata basis i.e. commensurate with the years of service completed.

7. It is pertinent to mention that in the case of Commissioned Officers of IAF, the minimum period to be completed in service for grant of pro rata pension is ten years, which the Petitioner has completed.

8. Further, the judgment in Govind Kumar Srivastava (supra) is a judgment in rem and is applicable to all similarly situated persons.

9. At this stage, learned counsel for the Respondents states that the Respondents will only grant pro rata pension to the Petitioner subject to verification i.e. upon production of No Objection Certificate.

10. Learned counsel for the Petitioner states that the Petitioner has lost his No Objection Certificate. He, however, relies upon the Discharge Certificate/Order dated 02nd July, 2010, in which it is specifically mentioned that the ground for discharge was that the Petitioner wished to apply for civil post.

11. Consequently, the Respondents are directed to examine the Discharge Certificate/Order and consider the Petitioner's request for grant of pro rata pension.

12. Accordingly, the impugned order dated 14th January, 2022 is quashed and the Respondents are directed to re-consider the Petitioner's request for pro rata pension on the basis of Discharge Certificate/Order dated 02nd July, 2010.

13. With the aforesaid directions, present writ petition stands disposed of.