

(2020) 08 AFT CK 0010

In the Armed Forces Tribunal

Case No : Original Application No. 1052 Of 2020, Miscellaneous Application 1201 Of 2020

G.C. Sharma

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Citation : (2020) 08 AFT CK 0010

Hon'ble Judges : Rajendra Menon, J; Philip Campose, Member (A)

Bench : Division Bench

Advocate : A.K. Trivedi, Anil Gautam

Judgement

M.A No. 1201 of 2020:

1. Heard learned counsel for the parties on the point of delay. Keeping in view the averments made in the M.A and finding the same to be bona fide

and in the light of the decision in Union of India and others v. Tarsem Singh (2008 (8) SCC 648), we allow the instant M.A condoning the delay of

7,126 days in filing the O.A.

O.A No. 1052 of 2020:

2. The applicant seeks for a direction to the respondents to fix his pension in the rank of CPO (WTR) in the light of the decisions of this Tribunal in

Ex-CI-/ELP Ran veer Singh Yadav v. Union of India and others (O.A No. 832 of 2020), Ex Sub Gobi Singh Raibut v. Union of India and others (O.A

No. 51 of 2020), Ex Sub Mohar Singh v. Union of India and others (O.A No. 444 of 2015) and Ex PO Harvinder Sigh Yadav v. Union of India and

others (O.A No. 506 of 2018) and to pay arrears along with interest @ 18% per annum till payment.

3. The applicant was enrolled in the Indian Navy on 01.07.1980. He was promoted to the rank of CPO (VVTR) on 01.01.1995. After having served in the said rank about six months, he retired from service on 31.07.1995. However, he was sanctioned pension only in the rank of Petty Officer, on

account of which he is getting pension in the rank of Petty Officer since the date of his discharge.

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

recommendations of the Vth 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 Armed 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 a//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 years. Other conditions to earn pension will continue to apply.

(I) Calculate the pension of the applicant based on the rank of CPO (VVTR), the last rank held by him before retirement, and in consonance with the

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

(ii) Issue a fresh PPO for the restructured and revised pension of the applicant in the rank of CPO (VVTR) 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 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.

6. No order as to costs.