

(2021) 01 AFT CK 0023

In the Armed Forces Tribunal

Case No : Original Application No. 91 Of 2021, Miscellaneous Application No. 103 Of 2021

Kuldip Rai

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 18-01-2021

Acts Referred:

Citation : (2021) 01 AFT CK 0023

Hon'ble Judges : Sunita Gupta, J;B.B.P. Sinha, Member (A)

Bench : Division Bench

Advocate : Ajit Kakkar, S. D. Windlesh

Final Decision : Allowed

Judgement

For appreciating the rival contentions, we have gone through the Tab/es annexed with Circular 430 issued in pursuance of the policy letters

dated 11.11.2008 by the Government of India. As per the Circular 430 in Table 116, we find the revision pension of Sergeant rank who has

completed 20 years of service and retired after 01.04.2004 was fixed at Rs.3,694/-. The submission of the learned Central Governmen

Standing Counsel as to the pension of Sergeants who retired on 01.05.2005 shall be Rs.3,694/- is found correct to that extent. However,

when we go through the service pension payable to a JWO in Table 116 of Circular 430 having 20 years of service and retired after

01.04.2004 would be Rs,4,711/- and not R.9.3,358/- as put forth by the respondents. Therefore, the pension payable to the applicant as on

13.01.2005 in accordance with the policy letters of the Government of India dated 07.06.1999 and 09.02.2001 would be Rs. 4,711/- and

not Rs.3,694/-. Similarly, the benefits conferred upon the /WO as per the VI Central Pay Commission recommendations as tabulated in Tabl

116 of Circular 430 for 20 years of service, we see that the pension payable to the applicant with effect from 01.01.2006 would be Rs. 100/-

and the revised pension with effect from 01.07.2009 would be Rs.8,720/- . When the benefits conferred upon the Armed Forces personnel on

the changed policies have been clearly laid down in the Circular 430 containing several Tables, it ought to have been issued by the

respondents without any request from the applicant. However, we find that the applicant had sought for payment of pension in the last held

rank on several occasions and it was not heeded The claim for pension is a statutory right and the respondents ought to have granted the

entitled pension, admittedly, even without issuing any corrigendum in the FIV. This has been reiterated in various communications of the

Government. Therefore, the respondents are under the obligation to revise the pension when it is brought to their notice of any defect in

granting the pension. However, in this case, the respondents have not acceded to the plea of the applicant even when it was raised

immediately after his retirement.

8. Accordingly, the instant OA is allowed. Subject to verification, the respondents are directed as under:

(i) Calculate the pension of the applicant based on the last held rank by him before retirement i.e. JWO, and in consonance with the principles of

calculation that have been upheld in JWO Gopalakrishnan (supra) in this regard; and

(ii) The applicant will be accordingly issued a fresh Corrigendum PPO in the last rank held by him within four months and arrears paid accordingly,

failing which, it shall carry interest @ 6% till actual payment.

9. No order as to costs.