

(2023) 02 DEL CK 0137

In the Delhi High Court

Case No : Civil Writ Petition No. 2198 Of 2023, Civil Miscellaneous Application
No. 8370 Of 2023

LT. CDR. Vikrant Malhan (Retd.)

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 21-02-2023

Acts Referred:

Constitution Of India, 1950 — Article 14
Armed Forces Tribunal Act, 2007 — Section 3

Citation : (2023) 02 DEL CK 0137

Hon'ble Judges : Suresh Kumar Kait, J; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : Pallavi Awasthi, Apurva Singh, Nitinjya Chaudhry

Final Decision : Disposed Of

Judgement

1. Vide the present petition, petitioner is seeking following relief(s):

"(i) By issuing a writ in the nature of mandamus by directing the respondent to grant pro rata pension in favour of the petitioner from the date of his discharge with all consequential benefits along with an interest @14%.

(ii) To direct the respondents to modify/amend the Clause No.1 as embodied in the Policy/Notification No. 8(3)86/A/D (Pension/Services) by Government of India, Ministry of Defence dated 19.02.1987 and circular No.A/49738/ AG/ PS4(c)/689/A/D(Pens/Sers) dated 21.04.1988 for applying it uniformly to all the Armed Forces Personnel including Short Service Commissioned Officers and PBORs as the same in present form is discriminatory and in violation of Article 14 of Constitution of India.

(iii) Pass any other and further order (s) and direction (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

2. For the same relief(s) as sought vide the present petition, petitioner earlier

also preferred a writ petition, i.e. W.P.(C) 7885/2022, which was dismissed as withdrawn.

3. Accordingly, with the same prayer, the present petition is not maintainable.

4. Moreover, jurisdiction qua the grievance of petitioner raised in the present petition lies with learned Armed Forces Tribunal under Section 3 of the Armed Forces Tribunal Act, 2007.

5. In view of above, the present petition and pending application are disposed of.

6. However, in the interest of justice, liberty is granted to petitioner to approach the appropriate forum.