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**(2020) 08 AFT CK 0008**

**In the Armed Forces Tribunal**

**Case No :** Original Application No. 1053 Of 2020, Miscellaneous Application 1202 Of 2020

Paramjit Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

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**Date of Decision :** 21-08-2020

**Acts Referred:**

**Citation :** (2020) 08 AFT CK 0008

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

**Bench :** Division Bench

**Advocate :** A.K. Trivedi, Anil Gautam

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## Judgement

M.A No. 1202 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. By filing this O.A, the applicant seeks for issuance of a direction to the respondents to fix his pension in the rank of CPO (WM) in the light of the

decisions of this Tribunal in Ex-CHELP Ran veer Singh Yadav v. Union of India and others (O.A No. 832 of 2020), Ex Sub Gopi Singh Rajput v.

Union of India and others (O.A No. 51 of 2020), Ex Sub Mahar 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.

The applicant was enrolled in the Indian Navy on 12.07.1980. 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 Vul 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 all 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.

We do not find any justification on the part of the respondents in not fixing the pension of the applicant in the rank of CHELP in accordance with the relevant Government orders, as he had already been promoted to that rank before the date of his discharge.

5. Since the case of the applicant is squarely covered by the decisions of the Tribunal in \_IWO P. Gopalakrishnan v. Union of India and others (0.A No. 62 of 2014 dated 13.02.2015 (Chennai Bench)) and Ex Sub Mohar Singh v. Union of India and others (0.A No. 444 of 2015 dated 27.09.2017 (Principal Bench)), we allow the 0.A, subject to confirmation of details, directing the respondents as under:

(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 JWO 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.