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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010240842026

+ **W.P.(C) 7502/2026 & CM APPL. 36386/2026, CM APPL.
36387/2026**

THE UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Premtosh K Mishra (CGSC) with
Mr. Anubhav Upadhyay, Mr.
Ashutosh Kr Tiwari, Mr. Krish
Bhatia, Advs.
Major Anish Muralidhar Army

versus

EX NK RATHOD RAJA BHAI BAVANJI BHAI Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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31.08.2026

**[File taken up today in view of Notification No. 85/G-4/Genl.-
I/DHC dated 21.08.2026, wherein the matters listed on 27th August,
2026 were directed to be taken up for hearing on 31st August, 2026.]**

1. The petition questions the order passed by the Armed Forces Tribunal in O.A. 1467/2024 on 31st May, 2024, whereby the Armed Forces Tribunal has directed the present petitioner to calculate the pension of the respondent on the last rank held by him before retirement, i.e., Naik.
2. The Tribunal further held that the principle in the judgment in the matter of '*JWO P. Gopalakrishnan vs. Union of India & Ors.*' (OA No. 62 of 2014 decided on 13th February, 2015) be made applicable.



3. The petitioner was further directed to issue an appropriate fresh corrigendum with regard to the pension to be paid to the respondent in the last rank of Naik, with a further direction to pay the arrears accordingly.
4. Amongst other, the grounds which are sought to be canvassed are that though the Tribunal has recorded consent, this Court should be sensitive to the fact that the matter was initiated on 22nd May, 2024, and decided on 31st May, 2024.
5. It is urged that within a period of nine days, the order came to be passed, that too by recording consent, and as such no sufficient opportunity was offered to the petitioner.
6. The next contention is that the Tribunal ought not to have shown indulgence by granting the relief, thereby directing payment of pensionary benefits in favour of the respondent based on the last rank he enjoyed, *i.e.*, Naik, as the circular dated 09th February, 2001, issued by the Ministry of Defence provides for the revised pay scale to be introduced from 01st January, 1996, which should have been taken as a cut-off date.
7. We have appreciated the aforesaid contentions in light of the findings recorded by the Tribunal.
8. So far as the first contention regarding the shortness of time and recording of consent is concerned, it was open for the petitioners to approach before the Tribunal on the said issue in case, according to them, the consent was incorrectly recorded.
9. Such does not appear to be the case of the petitioners, as the petitioners are claiming that they were entitled to more time in the matter to agitate and contest the issue on merits.
10. In any case, the finding of the Tribunal is based on the settled position



of law.

11. As regards the second contention with regard to the administrative instructions dated 09th February, 2001, and the alleged cut-off date of 01st January, 1996, is concerned, the Tribunal was sensitive to the same and has referred to the Apex Court judgment in the case of '**D.S. Nakara vs. Union of India & Ors.**' [(1983) 1 SCC 125] and also the judgment of the Tribunal in the matter of **JWO P. Gopalakrishnan** (*supra*).

12. To our knowledge from the observations of the Tribunal, the Regional Bench, Chennai in the matter of **JWO P. Gopalakrishnan** (*supra*) has delivered the judgment which has attained finality, and in any case, there is no specific statement on record that the petitioners are not extending the benefit to the employees appointed prior to 01st January, 1996.

13. Even otherwise, the instructions reflected in the communication dated 09th February, 2001, are purely administrative in nature and cannot be given the colour of being the position of law or statutory backing.

14. That being so, we refrain ourselves from causing interference in extraordinary jurisdiction.

15. The writ petition as such stands dismissed.

NITIN WASUDEO SAMBRE, J

AMIT SHARMA, J

AUGUST 31, 2026/DM/ST