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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 29th September, 2020

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W.P. (C) 7167/2020

RATNESH KUMAR

.....Petitioner

Through: Ms. Pallavi Awasthi, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Akshay Amritanshu, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

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[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

**C.M. Appl. No.24250/2020 (Exemption from filing original/
certified copy of order/documents)**

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

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3. The petitioner seeks pro-rata pension, after having been

permitted to leave the employment of the respondents Indian Air Force (IAF) as a Non-Commissioned Officer, though after 10 years of service but before 15 years of service, to be eligible for pension.

4. This Court, vide **Govind Kumar Srivastava Vs. Union of India** 2019 SCC OnLine Del 6425 (DB) has held the Circular dated 19th February, 1987 giving benefit of pro-rata pension only to Commissioned Officers leaving employment before qualifying the service for pension and not giving the same benefit to Non-Commissioned Officers, to be discriminatory and held the Non-Commissioned Officer leaving employment after 10 years of service but before 15 years of qualifying service also to be entitled for *pro rata* pension.

5. The counsel for the petitioner refers also to **Rakesh Kumar Vs. Union of India** 2020 SCC OnLine Del 288 (DB), order dated 12th March, 2020 in W.P.(C) No.2251/2020 titled **Vinod Kumar Vs. Union of India & Ors.** and other connected petitions and to order dated 28th September, 2020 in W.P. (C) No. 7127/2020 titled **Dhiraj Kumar Singh Vs. Union of India.**

6. The counsel for the petitioner, on inquiry states that the petitioner completed 10 years of service and was relieved from employment as Non-Commissioned Officer, with the NOC of the respondents IAF.

7. The counsel for the respondents IAF seeks time to take instructions.

8. However considering the nature of the petition and that the relief therein being covered by the judgments / orders of this Court, need to keep the petition pending, to add to the arrears of this Court, is not felt.

9. The petition is disposed of, directing the respondents IAF to grant pro-rata pension to the petitioner, from the date he was discharged from service, with arrears being paid not later than 12 weeks from today, failing which the respondents IAF shall be liable to pay simple interest at 6% per annum on the said amount for the period of delay.

10. The petition is disposed of.



**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

SEPTEMBER 29, 2020
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