

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9559/2019**

Page 1 of 3

3. Ms. Anusuya Salwan, learned counsel appearing for the Respondents in the present case seeks to draw a distinction between the above cases and the case at hand by pointing out that after obtaining a No Objection Certificate ('NOC') from the Air Headquarters and joining the BSF on 14th November, 1990 as Assistant Commandant, the Petitioner on 9th July, 1991 joined the SBI as a Probationary Officer ('PO'). It is accordingly contended that any request for grant of *pro rata* pension should be made to the BSF which is under the control of Ministry of Home Affairs ('MHA') and not to the Air Headquarters, which is under the Ministry of Defence ('MoD').

4. The Court finds that for the purposes of grant of *pro rata* pension what is to be examined is whether the Petitioner fulfils the requisite conditions in terms of the letter dated 19th February, 1987, which has been interpreted by this Court in the aforementioned decisions in ***Govind Kumar Srivastava*** (*supra*), ***Mohammad Israr Khan*** (*supra*) and ***Rakesh Kumar*** (*supra*) to apply to all those who seek discharge through the regular channel and are granted an NOC and subsequently absorbed in a PSB or other Public Sector Undertakings ('PSUs').

5. In the case at hand, the Petitioner was serving in the IAF from 21st November, 1978 to 19th December, 1990 i.e. 12 years. Following the regular channel, the Petitioner obtained an NOC and joined the BSF initially as Assistant Commandant. Soon thereafter, he was extended an offer to join SBI with effect from 9th July 1991.

6. It is nobody's case that when he subsequently joined the SBI as PO on 9th

July, 1991 he did not follow the regular procedure. The Court has not been shown how the Petitioner does not satisfy the requirement of the letter dated 19th February, 1987 for grant of *pro rata* pension. Whether the Petitioner after obtaining discharge from the Air Headquarters joined one or two PSUs or one of the Central Armed Police Forces ('CAPFs') makes no difference to his claim of *pro rata* pension from the Respondents. In the present case, the Petitioner having served in the IAF for 12 years, as noted above, has met the requirement of having "not less than 10 years of qualifying service" in the IAF, in terms of the notification dated 19th February, 1987.

7. The Court accordingly finds no reasons to differentiate the case of the Petitioner herein from that of the Petitioners in the aforesaid cases. Accordingly, the petition is allowed with a direction to the Respondents to grant the Petitioner *pro rata* pension from the date of his discharge, with arrears being paid not later than 12 weeks from today, failing which the Respondents would be liable to pay simple interest at the rate of 6% per annum on the said sum for the period of delay.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 15, 2020

nk