

\$~Suppl.-29

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

+ W.P. (C) 1069/2021, CM APPL.2987/2021

SANTOSH KUMARPetitioner
Through: Mr. Ankur Chhibber, Advocate

Versus

UNION OF INDIA AND ORSRespondents
Through: Mr.Bhagwan Swarup Shukla, CGSC.

% Date of Decision: 28th January , 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Learned counsel for the petitioner states that the petitioner in this petition claims to be similarly placed to the petitioners in ***Brijlal Kumar v. Union of India and others connected petitions 2020 SCC OnLine Del 1477*** and the petitioners in ***Govind Kumar Srivastava v. Union of India 2019 SCC OnLine Del 6425 (DB)*** [against which Special Leave Petition (Civil) No. 8813/2019 has been dismissed on 26th April, 2019] and seeks the same relief as claimed therein i.e. of pro rata pension.
3. Learned counsel for the petitioner, on enquiry, states that the requisite

No Objection Certificate (NOC) had been given.

4. Learned counsel for the respondents fairly states that subject to the right to verification and the right of appeal to the Supreme Court against the judgment in **Brijlal Kumar** (supra) being saved, the petition be disposed of.

5. Accordingly, the impugned letter dated 27th October 2020 by which the request of the petitioner for grant of pro rata pension has been rejected on the ground that the judgment relied upon by the petitioner was only in favour of the individual concerned and there was no Court order with regard to the petitioner, is set aside. Further, the petition is disposed of directing the respondents Indian Air Force that within twelve weeks herefrom, if they find the petitioner to be similarly placed as the petitioners in **Govind Kumar Srivastava** (supra) and **Brijlal Kumar** (supra) and other connected petitions supra, to grant him the same relief as granted in those petitions i.e. by payment of arrears of pro rata pension from the date of discharge till the date of payment and in future to continue to pay pro rata pension to the petitioner. However, if on verification it is found that the petitioner, for any reason, is not entitled to pro rata pension for reasons other than those stated in the judgments in **Govind Kumar Srivastava** (supra) and **Brijlal Kumar** (supra) and other connected petitions supra being in *personam*, the respondents, within the said twelve weeks, shall communicate to the petitioner, not so found entitled, the reasons in writing thereof and in which event, the petitioner shall be entitled to take further remedies there against.

6. If the arrears of pro rata pension are not paid within twelve weeks, the same shall also incur interest thereon @ 7% per annum from the expiry of twelve weeks till the date of payment.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

JANUARY 28, 2021

pkb

