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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 13.09.2021

+ W.P.(C) 4976/2021
NEMAI CHAND GHOSE Petitioner
Through Mr.Akshat Bajpai, Adv.

Versus

UNION OF INDIA MINISTRY OF DEFENCE THR. ITS
SECRETARY & ANR. Respondents
Through: Mr.Sanjeev Sabharwal,
Sr.Govt. counsel.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. This petition has been filed by the petitioner praying for a direction to the respondent no.2 for payment of the pro-rata pension from the date of the termination of the petitioner's service in the Indian Air Force.
2. The representation of the petitioner seeking grant of pro-rata pension has been rejected by the respondent no.2 vide communication dated 26th February, 2021, observing as under:

*"2. The contents of your ibid representation have been examined. In this context, it is informed that **there is no provision for grant of Pro-Rata Pension to an airman in the Pension Regulations for the Air Force, 1961.***

3. As per Regulation 121, Pension Regulations for Air Force 1961, minimum Regular qualifying service to earn Service Pension is 15 years and you had rendered 11 years AND 133 days of qualifying service. By virtue of your length of service, you were eligible for Service Gratuity and Death-Cum-Retirement-Gratuity (DCRG) in terms of Pension Regulation 127, which had already been paid to you at the time of discharge.

4. With regard to **Grant of Pro-Rata Pension** on the analogy of Court Orders passed by the Hon'ble High Court of Delhi it is clarified that the Court Verdict given by the Hon'ble Court is only in favour of the individual concerned. Hence, your interpretation and demand for grant of Pro-Rata Pension on the basis of various Court Orders incorrect and unsubstantiated as Court Verdicts are specific in nature and relief so granted cannot be considered as precedence for other cases.

5. In view of the above, grant of any kind of pension to those airmen, who do not fulfil the eligibility conditions, will virtually defeat the sanctity of statutory provisions issued by Govt. of India on the subject.”

3. Learned counsel for the petitioner states that the petitioner in this petition claims to be similarly placed to the petitioners in ***Brijlal Kumar and others v. Union of India and others 2020 SCC OnLine***

Del 1477 and the petitioner 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.

4. Learned counsel for the petitioner, on enquiry, states that the requisite No Objection Certificates (NOCs) had been given.

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

6. Accordingly, 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 petitioner in *Govind Kumar Srivastava* (supra) and *Brijlal Kumar* (supra) and other connected petitions, 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 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. Needless to state that if any document is asked for by the respondents,

the same shall be furnished by the petitioner within a week.

7. 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.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 13, 2021/RN



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