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

% ***Date of decision: July 18, 2022***

+ **W.P.(C) 7933/2022**

AKABAR HUSEN, EX CPL 906767-A Petitioner

Through: **Ms. Pallavi Awasthi, Advocate**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Vivekanand Mishra, Sr. Panel Counsel**

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

CM APPL. 31152/2022 (exemption)

1. Allowed subject to all just exceptions.
2. The application is accordingly disposed of.

CM APPL.31151/2022 (for recalling of order dated 01.06.2022.)

3. The present application has been filed by the applicant/petitioner seeking recalling of order dated 01.06.2022.
4. On 01.06.2022, two different matters of the learned counsel for the petitioner were listed before this Court and the learned counsel for the



petitioner in the case of *LT. CDR Vikrant Malhan, Retd. VS. Union of India & Ors. : W.P.(C) 7885/2022* had sought leave of this Court to withdraw the said petition and the same was allowed. However, present petition pertains to grant of pro-rata pension and the same was allowed on 01.06.2022 subject to verification. However, inadvertently, a wrong order was passed in the present petition.

5. Notice issued.

6. Learned counsel for non-applicants/respondents accepts notice and does not dispute the fact that inadvertently, wrong order was passed on 01.06.2022 by this Court.

7. Accordingly, the present application is allowed and the order dated 01.06.2022 passed by this Court is recalled.

8. The writ petition, W.P.(C) 7933/2022 and CM APPL.24176/2022 are restored to their original number and position.

9. In view of above, present application stands disposed of.

W.P.(C) 7933/2022 & CM APPL.24176/2022

10. The petitioner has filed the present petition seeking a writ of mandamus for directing the respondents to grant pro-rata pension in favour of the petitioner from the date of his discharge with all consequential



benefits along with interest @14% in terms of judgment dated 09.01.2019 in W.P.(C) No. 10026/2016 and judgment dated 08.02.2021 in W.P.(C) No. 9905/2019.

11. According to petitioner, he was enrolled in Indian Air Force on 29.03.2005 and had undergone required training successfully. Petitioner appeared in the interview and selection to the post of GP 'A' Post having maximum of Pay Scale not less than Rs.39, 100/- in UP Govt. through UP PSC after obtaining "No Objection Certificate" dated 31.12.2015 from respondents. The petitioner was offered to join the department of Sansthaagat Vitt Kar avam Nibandhan Anubhaag-1 in Uttar Pradesh Govt. in terms of the appointment letter dated 11.08.2016. The petitioner stood discharged from the services of IAF on 12.09.2016 after rendering regular service of 11 years 5 months and 14 days.

12. Learned counsel for the petitioners submits that by virtue of Notification no. 28/30/2004-P & PW (B) dated 26.05.2005 and in terms with Rule 37 of Central Civil Services (Pension) Rules, 1972, all employees of Central Government are entitled to grant of pro-rata pension and that in view of judgment dated 09.01.2019 rendered in W.P.(C) No. 10026/2019, titled as ***Govind Kumar Srivastava Vs. Union of India & Ors.***, which has been



upheld by the Hon'ble Supreme Court, respondents be directed to grant pro-rata pension with arrears to the petitioner for their past services in Air Force.

13. Notice issued.

14. Mr. Vivekanand Mishra, learned Senior Panel Counsel has entered appearance on behalf of respondents on advance notice and submits that the case of petitioner shall be considered and his pro-rata pension shall be released, if found eligible.

15. Upon hearing, we dispose of the present petition with direction to respondents to consider the case of petitioner and release pro-rata pension, if found eligible, with appropriate interest in terms of judgment dated 09.01.2019 in W.P.(C) No. 10026/2019 and judgment dated 08.02.2021 in W.P (C) 9905/2019 passed by this Court.

16. With directions as aforesaid, the present petition is disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JULY 18, 2022

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