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

% ***Date of decision: 09.11.2022***

+ **W.P.(C) 15349/2022 & CM APPL. 47649/2022**

EX-CPL JYOTI RANJAN HOTA Petitioner

Through: **Mr. Baljeet Singh and Ms. Deepika Sheoran, Advocates**

versus

UNION OF INDIA AND ORS Respondents

Through: **Ms. Archana Surve, GP with Mr. Jatin Singh, Advocate for R-1**

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

J U D G M E N T (oral)

1. 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.

2. According to petitioner, he was enrolled in Indian Air Force on 27.06.2006 and underwent required training successfully. On completion of 10 years, 06 months and 14 days of services, petitioner obtained pre-mature

discharge through proper channel to join a civil post, i.e. Assistant Collector, under Government of Orissa. Initially, he was denied to be discharged from service by the respondents, however, learned AFT (PB), New Delhi vide its order dated 23.08.2016 in OA No.611/2016 directed to respondents to issue NOC in favour of the petitioner and to discharge him from Air Force to facilitate him in joining his new assignment by due date.

3. Learned counsel for the petitioner submits that by virtue of Office Memorandum No. 28/30/2004-P & PW (B) dated 26.07.2005 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. 10026/2016, 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.

4. Notice issued.

5. Ms. Archana Surve, Govt. Pleader accepts notice on behalf of Union of India and submits that the case of petitioner shall be considered and his pro-rata pension shall be released, if found eligible.

6. Though, in the present case, the petitioner took voluntary retirement from Air Force, however, since the petitioner had already completed 10 years, 06 months 14 days of services, therefore, the relief(s) granted to the petitioner vide judgment dated 09.01.2019 passed in ***Govind Kumar Srivastava (supra)*** shall also be granted to the petitioner herein.

7. In view of above, we hereby direct the 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. 10026/2016 and judgment dated 08.02.2021 in W.P (C) 9905/2019 passed by this Court.

8. With directions as aforesaid, the present petition is disposed of. Pending application is disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

NOVEMBER 09, 2022
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