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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2817/2022 & CM APPL.8127/2022

SIVAKUMAR MATHADA

..... Petitioner

Through: Om Prakash Kr.Srivastava, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Vivek Goyal, Advocate.

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Date of Decision: 15th February, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the Ministry of Defence's Policy No.8(3)/86/A/D(Pension/Services), and the rational policy criteria in Policy dated 19th February, 1987. Petitioner also seeks a direction to the Respondents to release the pro-rata pension to the Petitioner from date of discharge from Air Force with associated benefits, including interest.
3. Learned counsel for the Petitioner states that the Petitioner was discharged from Indian Air Force after more than ten years, eleven Months and fifteen days of service and is currently serving in the Indian Institute of



Management as a Chief Administrative Officer, which is a Central Government Institute.

4. Learned counsel for the Petitioner states that the Respondents vide its reply to legal notice dated 06th July 2021, intimated the petitioner that there is no provision for grant of pro-rata pension to an Airman in the Pension Regulations for the Air Force and that the reliefs granted by the Delhi High Court in other writ petitions was specific to the Petitioners therein.

5. Learned counsel for the petitioner relies on the decision of this Court in ***Govind Kumar Srivastava Vs. Union of India, WP(C) 10026/2016*** wherein the pro-rata pension was directed to be granted to PBORs.

6. Issue notice. Mr. Vikrant N. Goyal, Advocate accepts notice on behalf of respondents. Though he admits that the matter is covered by the judgment of this Court in ***Govind Kumar Srivastava Vs. Union of India, WP(C) 10026/2016***, he submits that the petitioner had not furnished the No Objection Certificate ('NOC') from the Department.

7. However, a perusal of the reply to the legal notice dated 6th July, 2021 reveals that this is not the ground for rejection of the request for grant of pro-rata pension. It is settled law that the grounds for rejection cannot be enlarged by way of a counter affidavit or an oral argument [See: ***M.S. Gill Vs. CEC, (1978) 1 SCC 405***]. Consequently, the ground urged by learned counsel for the respondents is untenable in law.

8. Keeping in view the aforesaid as well as the judgment of this Court in ***Govind Kumar Srivastava*** (supra), the present writ petition is allowed to the extent that the respondents are directed to release the pro-rata pension to the



NEUTRAL CITATION NO: 2022/DHC/000588

petitioner from the date of discharge of Air Force with associated benefits within eight weeks. With the aforesaid direction, the writ petition and pending application stand disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 15, 2022
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