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

% ***Date of decision: February 09, 2023***

+ **W.P.(C) 1648/2023**

EX SGT ASHOK KUMAR

..... Petitioner

Through: **Ms. Chhavi Yadav, Advocate for
Mr.Ajit Kakkar, Advocate**

Versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: **Mr. Ajay Jain, Senior Panel Counsel,
Mr. Keshav Ahuja & Mr. Jitendra
Kumar Tripathi, Advocates with
Government Pleader & SGT
Mritunjay**

CORAM:

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

J U D G M E N T (oral)

1. The petitioner, who was enrolled in Indian Air Force on 14.03.1980, claims to have applied for the post of Probationary Officer in bank through proper channel; had received appointment letter dated 23.09.1992 and was discharged from service on 15.06.1992 after completing 12 years and 03 months of service. According to petitioner, Government of India, Ministry of Finance, Department of Ex-Servicemen Welfare, vide letter dated 04.11.2022 has extended benefit of pro rata pension to the JCO/Ors subject to prerequisite of 10 years qualifying service, therefore, petitioner applied

for copy of “No Objection Certificate” (NOC) from respondents under the provisions of Right to Information Act, 2005; in terms whereof petitioner was permitted to appear and join civil employment. However, respondents did not provide the copy of “No Objection Certificate” on the ground that NOC was destroyed as per rules.

2. The petitioner further claims to have sent a legal notice dated 24.09.2020 to the respondents for grant of pro rata pension, which was rejected by the respondents vide letter dated 22.10.2020. The petitioner had thereafter invoked writ jurisdiction of this Court by filing W.P.(C) No. 4802/2021, which was disposed of vide judgment and order dated 19.04.2021 directing the respondents to grant benefit of pro rata pension to the petitioner in parity with similarly placed persons within twelve weeks or else pass a speaking order. The respondents thereafter passed a speaking order dated 17.05.2021 rejecting the claim of petitioner on the ground that there is no provision to grant pro rata pension to an airman under the applicable rules nor there is any record to establish ‘no objection’ was issued to him. Another legal notice dated 22.07.2021 sent by the petitioner for release of pro rata pension, yet again respondents vide reply dated 09.08.2021 refused to grant pro rata pension to petitioner.

3. According to petitioner, the contempt petition filed by the petitioner against the respondents for non grant of pro rata pension was dismissed vide order dated 22.12.2021 erroneously noting that petitioner had served 12 years and 03 months in the service. The present petition has been preferred by the petitioner seeking setting aside of reply letter dated 09.08.2021 given by the respondent, whereby petitioner’s request for grant of pro rata pension has been dismissed.

4. During the course of hearing, learned counsel appearing on behalf of respondents has raised a preliminary issue that his reply to the legal notice has been filed vide order dated 17.05.2021, which is not under challenge in this petition. On perusal of order dated 17.05.2021 we find that respondents are seeking certain documents from the petitioner, however, the same have not been supplied by him.

5. We hereby dispose of the present petition with direction to the petitioner to furnish those documents to respondents which are required, within three weeks except copy of NOC, if any, issued by the respondents. The respondents are directed to not press for furnishing of copy of NOC and pass a speaking order with regard to grant of pro rata pension to petitioner within four weeks thereafter. Needless to say, if any grievance still persists, the petitioner is at liberty to approach the appropriate forum.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 09, 2023

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