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

% ***Date of decision: February 21, 2023***

+ **W.P.(C) 2198/2023 & CM APPL.8370/2023**

LT. CDR. VIKRANT MALHAN (RETD.) Petitioner

Through: **Ms. Pallavi Awasthi and Ms. Apurva Singh, Advocates**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Nitinja Chaudhry, Sr. Panel Counsel with Ms. Archana, GP and Lt Cmdt. Vinayak, Law Officer**

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. Vide the present petition, petitioner is seeking following relief(s):

“(i) By issuing a writ in the nature of mandamus by directing the respondent to grant pro rata pension in favour of the petitioner from the date of his discharge with all consequential benefits along with an interest @ 14%.

(ii) To direct the respondents to modify/amend the Clause No.1 as embodied in the Policy/Notification No. 8(3)86/A/D (Pension/Services) by Government of India, Ministry of Defence dated 19.02.1987 and circular No.A/49738/ AG/PS4(c)/689/A/D(Pens/Sers) dated 21.04.1988 for applying it uniformly to all the Armed Forces Personnel including Short Service Commissioned Officers and PBORs as the same in present form is discriminatory and in violation of Article 14 of Constitution of India.

(iii) Pass any other and further order (s) and direction (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. For the same relief(s) as sought vide the present petition, petitioner earlier also preferred a writ petition, i.e. W.P.(C) 7885/2022, which was dismissed as withdrawn.
3. Accordingly, with the same prayer, the present petition is not maintainable.
4. Moreover, jurisdiction qua the grievance of petitioner raised in the present petition lies with learned Armed Forces Tribunal under Section 3 of the Armed Forces Tribunal Act, 2007.
5. In view of above, the present petition and pending application are disposed of.
6. However, in the interest of justice, liberty is granted to petitioner to approach the appropriate forum.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 21, 2023/rk