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

+ **W.P.(C) 489/2023**

RAM CHANDER JAIN Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr. Rahul Sharma, CGSC Sr. Panel
Counsel with Mr. Vinod Tiwar, GP
and Mr. Ayush Bhatt, Mr. Sparsh
Chaudhary and Mr. Harsh Rao,
Advocates.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

15.05.2024

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1. This petition has been filed by the petitioner with the following prayers:

“A. To pass an order and direction or appropriate writ in the nature of the certiorari, quashing the impugned order/letter M.O.D. PN/6809/76 Dated 28 June 2022 Ruling/Order/Orders and any other order deemed fit in this writ case be passed I in essence of Pension Regulation applicable to Commissioned Officers.

B. Further pass an order and direction to the respondents to consider the petitioner for his pension rights in the light of Service (Pension) Regulations 1964 under Navy Act applicable to Commissioned Officer and issue a fresh Pension Payment order as applicable to Officers.

C. The respondents be directed to grant service pension and other benefits the petitioner and in future as applicable to Commissioned Officer (Sub. Lt. Rank) or higher Rank and as per pension Regulation for Commissioned Officers and Promotion Rules counting of service more than 17 years.”



2. An objection on the maintainability of the petition has been taken by Mr. Rahul Sharma, Advocate by stating that the subject matter of the petition being wrong fixation of the pension, the same shall lie before the Armed Forces Tribunal.

3. On a perusal of Section 3(o) of the Armed Forces Tribunal Act 2007 which defines service matters, the same also includes pension.

4. We agree with the submission made by Mr. Sharma that the subject matter of the petition shall lie before the Armed Force Tribunal.

5 Accordingly, we dispose of this petition by granting liberty to the petitioner to approach the Armed Force Tribunal within one month from today. The period during which the petitioner was prosecuting the present petition shall be excluded for the purpose of limitation.

V. KAMESWAR RAO, J

RAVINDER DUDEJA, J

MAY 15, 2024/ib