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

+ **W.P.(C) 1652/2024 & CM APPL. 6802/2024**

ROSHAN LAL DHULL

..... Petitioner

Through: Ms. Pallavi Awasthi, Adv. a/w
Ms. Shweta Shandilya, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Hemant Kumar Yadav, SPC for
UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **05.02.2024**

CM APPL. 6802/2024

Allowed, subject to just exceptions.

Application disposed of.

W.P.(C) 1652/2024

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

“(i) To declare the Para 9 as embodied in the policy No.1(4)/2007/D(Pen/Policy)/Vol-II dated 04.11.2022 by Government of India, Ministry of Defence as unconstitutional, ultra-virus, void, illegal, arbitrary, unreasonable, discriminatory and unsustainable in the eyes of law and hence of no effect as the same restricts the arrears of the pro-rata pension from the date of issuance of policy i.e. 04.11.2022 which is contrary to the directions passed by this Hon'ble Court in catena of judgments wherein the arrears of pro-rata pension have been given to the similarly situated persons from the date



of their discharge.

(ii) By issuing a writ in the nature of mandamus by directing the respondent to grant arrears of pro-rata pension to the petitioner herein from the date of his discharge with all consequential benefits alongwith an interest @14% in terms of judgment dated 09.01.2019 in WP(C) No.10026/2016, judgment/order dated 08.02.2021, judgment/orders dated 12.07.2021, 21.01.2022, 03.02.2022, 28.03.2022, 08.07.2022, 27.07.2023 and 15.01.2024 passed by this Hon'ble Court.

(iii) And/ or pass any other order/ direction which may be deemed fit and proper in the interest of justice to the petitioner.”

2. The conceded position in law is that the petition with regard to claim of arrears of pro-rata pension shall lie before the Armed Forces Tribunal in view of Section 3(o) of the Armed Forces Tribunal Act which defines “service matters”.

3. By granting liberty to the petitioner to approach Armed Forces Tribunal in accordance with law, this petition is disposed of.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

FEBRUARY 5, 2024/ds