



2021-DPG-336-18



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

% Date of decision: January 15, 2024

+ W.P.(C) 2872/2022

(15) N RAMASESHAN .

..... Petitioner

Through: Mr. Raj Kumar and Ms. Nishi, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday and
Mr. Krishnan V., Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

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

"It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

(a) Issue a writ of Mandamus or any appropriate order directing the Respondents to release the pro-rata Pension to the Petitioner from date of discharge from Indian Air Force with associated benefits including an interest of 10% on the arrears, in line with the squarely covered judgement of this Hon'ble Court titled as Govind Kr. Srivastava Vs UoI & Brijlal Kumar (Supra).

(b) Quash and set aside the impugned speaking order dated 17 May 2021 and communication dated 07 October 2021 passed by the respondent.



(c) Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

2. The petitioner is seeking grant of pro-rata pension from the date of discharge from Indian Air Force. The admitted facts noted from the record are that the petitioner was enrolled in the Air Force on February 6, 1985, as Airman at Group-C post. While working in the Indian Air Force, he had applied for appointment in Pawan Hans Helicopters Limited, a Govt. of India Undertaking as an Engineer Trainee. He was selected for the said post and was appointed on September 18, 1995. He continued to work in Pawan Hans Helicopters Limited till December 4, 2005.

3. According to the learned counsel for the petitioner, the issue of grant of pro-rata pension for the service rendered by the petitioner in the Air Force is settled by this Court in the case of ***Govind Kumar Srivastava v. UOI, W.P.(C) 10026/2016*** decided on January 9, 2019. The said judgment was followed in ***Brijlal Kumar & Others v. UOI & Ors., WP(C) 98/2020***, decided on November 24, 2020. He submits that, in view of these judgments the benefit of pro-rata pension need to be granted to the petitioner.

4. On the other hand, Mr. Harish Vaidyanathan Shankar, learned CGSC appearing for the respondents state that the only stand of the respondents is, whether the petitioner had taken the employment in Pawan Hans Helicopters Limited after seeking NOC from the Air Force.

5. On this learned counsel appearing for the petitioner would submit that the petitioner has, along with the rejoinder affidavit, filed the NOC given by the Air Force to the extent that the petitioner can appear in the interview for the post of Engineer Trainee.



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6. On this Mr. Vaidyanathan submits, the Air Force need to verify the veracity of the NOC said to have been issued by the Air Force.
7. Mr. Vaidyanathan also submits that the petitioner shall be entitled to pro-rata pension in terms of the policy dated November 4, 2022, from today and not from the date of discharge.
8. We are unable to agree with the said submission for the reason that the only stand of the respondents in the counter-affidavit is, whether the petitioner has taken employment after taking NOC from the Air Force. Further, the grant of pro-rata pension that too w.e.f., 1987, has to be seen as per provisions in vogue in that year and not today.
9. Suffice to state, the respondent No.1 shall verify whether the NOC annexed with the rejoinder has been issued by the Air Force. The said verification shall be carried out within four weeks from today and if the pro-rata pension is payable, the same shall be granted to the petitioner from the date of discharge and shall continue to be paid in future as well. Arrears thereof shall be paid within a period of 12 weeks i.e., after the verification. If the arrears are not paid within 12 weeks, same shall be paid with interest @ 7% per annum.
10. The petition is disposed of.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 15, 2024/jg