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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5624/2022, CM APPL. 16653/2022 –Int. dir.**
PRAKASH KUMAR SINGHPetitioner

Through: Mr. Himanshu Upadhyay, Adv.

versus

UNION OF INDIA & ORS.Respondents
Through: Ms. Richa Dhawan, SPC with Mr.
Anuj Chaturvedi and Ms. Harshita
Maheshwari, Advs.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
07.08.2024

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1. The petitioner, who is a retired Corporal of the Indian Air Force (IAF) has approached this Court by way of the present petition under Article 226 of the Constitution of India seeking the following reliefs:

*“a) Issue a Writ of Mandamus certiorari or any another writ/order inter-alia with the direction to the Respondent to consider the case of the petitioner(s) and grant him/them pro-rata pension from the date of discharge; and/or
b) Any other relief, order or direction this court may deem fit and proper under the facts and circumstances of this case.”*

2. As per the record, the petitioner, who was enrolled in the IAF on July 14, 1997, as an Engine Fitter had, while working in the IAF, applied for appointment as a Probationary Officer with the Bank of Baroda (BOB), a Govt. of India Undertaking. Upon being selected for the said post, he was



issued discharge by the IAF on 10.12.2007 and consequently, joined the BOB on 13.12.2007. The petitioner is now claiming pro-rata pension from the date of discharge from the IAF.

3. Learned counsel for the petitioner submits that the issue of grant of pro-rata pension for the service rendered by the petitioner in the IAF stands settled by this Court in *Govind Kumar Srivastava v. UOI, W.P.(C) 10026/2016* decided on January 9, 2019. The said decision, he submits, was followed in *Brijlal Kumar & Others v. UOI & Ors., WP(C) 98/2020*, decided on November 24, 2020. He, therefore, prays that, in view of these decisions, the benefit of pro-rata pension be granted to the petitioner.

4. On the other hand, Ms. Richa Dhawan, learned SPC appearing for the respondents while not disputing that the issue of entitlement to pro-rata pension stands covered in favour of the petitioner, submits that it is still to be verified as to whether the petitioner had taken employment in the BOB after seeking 'No Objection Certificate' (NOC) from the IAF. She further submits that in terms of the policy dated November 4, 2022, the petitioner can be paid pro-rata pension only prospectively and not from the date of his discharge.

5. On this, learned counsel appearing for the petitioner submits that the petitioner has, along with his rejoinder affidavit, filed a copy of the NOC issued by the IAF permitting him to appear in the interview for the post of Probationary Officer. He, therefore, contends that it is evident that the petitioner had joined BOB only after 'NOC' from the IAF.

6. Having considered the submissions of the learned counsel for the parties, we are unable to agree with the respondents that pro-rata pension would be payable only from today and not from the date of the petitioner's



discharge from the IAF. We find that the ground taken by the respondents in their counter-affidavit is that the question as to whether the petitioner had taken employment with BOB after taking NOC from the IAF.

7. In these circumstances, the respondents cannot be permitted to now urge that pro-rata pension will not be payable to the petitioner from the date of his discharge. Further, we are of the view that the petitioner's claim for grant of pro-rata pension from the date of his discharge has to be examined as per provisions applicable on that date and not today's date.

8. The writ petition is accordingly allowed by directing the respondent no. 1 to verify whether the NOC annexed by the petitioner with his rejoinder had been issued by the IAF. The said verification shall be carried out within four weeks from today and if pro-rata pension is found payable to the petitioner, the same shall be granted to him 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.

9. Accordingly, the petition along with pending application is disposed of.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 7, 2024/ss