



2024:DHC:9607-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 12.12.2024

+ W.P.(C) 4729/2019
PRAMOD KUMAR BIDUAPetitioner
Through: Mr. Rakesh Kumar Yadav,
Adv. with petitioner in person.

versus

THROUGH ITS SECRETARY, UNION OF INDIA AND
ANR.Respondents
Through: Mr. Satya Ranjan Swain, Mr.
Kautilya Birat, Mr. Vedansh
Anand, Advs.
Ms. L. Gangmei, Adv. for
applicant in CM No.
73027/2024

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J (ORAL)

CM No. 73027/2024

1. This application has been filed by the earlier counsels, Mr. Rajiv Agarwal, Ms. Meghna De, Ms. L. Gangmei and Mr. N. Bhushan, appointed by the petitioner, seeking withdrawal of the Vakalatnama
2. As Mr. Rakesh Kumar Yadav, learned counsel has entered appearance for the petitioner, the application is allowed. The earlier counsels, Mr. Rajiv Agarwal, Ms. Meghna De, Ms. L. Gangmei and Mr. N. Bhushan are discharged from appearing for the petitioner.

**W.P.(C) 4729/2019**

3. This petition has been filed challenging the Order dated 12.02.2019 issued by respondent no. 2 rejecting the claim of the petitioner for grant of pro-rata pension by observing as under:-

“3. It is revealed from your record that you were enrolled in the IAF on 09 Jan 81 and discharged from service wef 17 Dec 92 under the clause "at his own request before fulfilling the conditions of your enrolment after completion of 11 years and 344 days of qualifying regular service. The applicability of pension to an airman is governed by the Pension Regulations for the Air Force, 1961 (Part 1) and minimum qualifying regular service for earning Service Pension is 15 years in terms of Regulation 121 of ibid Pension Regulation. As you have a total of only 11 years, and 344 days of qualifying regular service against 15 years, you are ineligible for pension. With regard to your contention for grant of Pro-Rata Pension, it is informed that your case is not identical with the petitioners of CWP No. 4942/1994 as they were discharged from service under the clause "on permanent absorption in HAL".

4. In view of the above, your interpretation and demand for grant of Pro-Rata Pension merely on the basis of various court orders is considered incorrect and unsubstantiated. Hence, your plea for grant of Pro-Rata Pension cannot be acceded to as there is no provision in the Pension Regulation for the Air Force, 1961 (Part I & II) for grant of Pro-Rata Pension to an airman.”

4. The learned counsel for the petitioner, placing reliance on the Judgment dated 09.01.2019 of this Court in W.P.(C) 10026/2016, titled ***Govind Kumar Srivastava v. Union of India*** and the Circular bearing no. No.1(4)/2007/D(Pen/Policy)/Vol-II dated 04.11.2022 issued by the Ministry of Defence, Government of India (hereinafter



referred to as 'Circular dated 04.11.2022'), submits that the ground given by the respondents for rejection of the relief of pro-rata pension to the petitioner is not acceptable.

5. We find merit in the submission made by the learned counsel for the petitioner.

6. In **Govind Kumar Srivastava** (supra), this Court had directed the respondents to grant pro-rata pension to the Personnel Below Officer Rank (PBOR) as well. In the present case, the petitioner had joined the Indian Air Force on 09.01.1981. After taking due permission/no objection, he applied for the post of Labour Enforcement Officer with the Ministry of Labour. The said application was forwarded by the Air Headquarter to the Union Public Service Commission (UPSC) *vide* letter dated 20.06.1990. The petitioner was duly selected for the said post and was offered appointment *vide* letter dated 05.08.1992 by the UPSC. He joined the said post on 18.12.1992, as is evident from his Payment Pension Order.

7. Having served with the Indian Air Force for 11 years 11 months and 8 days, he was entitled to the grant of pro-rata pension in terms of the Circular dated 04.11.2022 and the Judgment of this Court in **Govind Kumar Srivastava** (supra). The rejection order proceeds on an incorrect basis that the petitioner requires 15 years of service for earning pension. The Impugned Order fails to appreciate that the petitioner's claim is not for regular pension, but for pro-rata pension, for which, in terms of the Circular dated 04.11.2022, only 10 years of service is required. As noted herein above, the petitioner satisfied this condition as also the condition that he had applied for and joined the



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Ministry of Labour after taking retirement from the IAF with the prior permission.

8. The Impugned Order also makes an artificial distinction from the other judgments by stating that the petitioners therein were discharged “*on permanent absorption in HAL*”. This distinction is totally fallacious and shows non-application of mind in terms of the Circular dated 04.11.2022.

9. Accordingly, the present petition is allowed. The respondents are directed to release the arrears of pro-rata pension to the petitioner confined to a period commencing from three years prior to the date of filing the present petition. The arrears shall be released to the petitioner along with interest @ 9% p.a. till the actual date of disbursement.

10. The petition is allowed in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 12, 2024
SU/B/VS

Click here to check corrigendum, if any