



W.P.No.32089 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :14.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.32089 of 2024

S.V.Thiyagarajan

... Petitioner

Vs.

- 1.The Registrar,
Armed Forces Tribunal Regional Bench,
Chennai.
- 2.The Union of India,
Represented by its Secretary,
Ministry of Defence, South Block,
New Delhi.
- 3.The Chief of Army Staff,
Sena Bhavan, Army Head quarters,
New Delhi.
- 4.The Secretary,
Ministry of Public grievances,
Department of Pension and Pensioners,
Lok Nayak Bhavan,
New Delhi.
- 5.Principal Controller of Defence Accounts (Pensions),
Office of the PCDA (P),
DraupatiGarh, Allahabad – 14.
- 6.Additional FA RK & Joint Secretary,



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Department of Defence,
Finance, Room No.131B, South Block,
DHQ PO,
New Delhi – 110 011.

7. Abhilekh Brigade of The Guards Records,
Brigade of The Guards,
Kamptee,
State of Maharashtra – 900 746.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records in O.A.78 of 2019 with M.A.No.98 of 2019, dated 02.02.2023, on the file of the learned Armed Forces Tribunal, Regional Bench, Chennai and quash the same and further direct the respondents to release the pensioner benefits of the petitioner for his total period of service i.e 18 year and 38 days and further direct the respondents to calculate and release the arrears of monthly pension within a stipulated time fixed by this court.

For Petitioner : Mr.M.Muruganantham

For Respondents : Tribunal (R1)
Mr.K.Ramanmoorthy, CHC (for R2-7)

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

Under assail is the order dated 02.02.2023 passed by the Armed Forces Tribunal, Regional Bench at Chennai in O.A.No.78 of 2019.

2. The undisputed facts between the parties would reveal that the writ



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petitioner was enrolled in the Territorial Army on 24.05.1973 and was discharged while serving as Naik on 19.07.1991. He has put in the embodied service of 5 years and 97 days and 12 years and 306 days of unembodied service, out of the total service of 18 years and 38 days.

3. The contention raised on behalf of the writ petitioner before the Tribunal was that the writ petitioner is governed by the provisions of the Territorial Army Act, Rules and Regulations, 1948 and for the purpose of pension, the Territorial Army Pension Regulations, 1961 is followed. Therefore, the total period of embodied and unembodied service of the petitioner is to be reckoned as qualifying service for grant of pension for the services rendered by him in the Territorial Army.

4. The learned Panel Counsel would oppose by stating that the writ petitioner admittedly served in the Territorial Army. Under the Pension Regulations for the Army, the services rendered in the Territorial Army are treated differently and 15 years of qualifying service alone is eligible for the grant of pension under Regulation 132 of the Pension Regulations for the Army, 1961. Since the petitioner has completed the embodied service of 5 years and 97 days, he became ineligible and the unembodied service of 12 years and 306 days cannot be reckoned for the purpose of calculation of qualifying service for



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the grant of pension.

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5. Under the Pension Regulations for the Army, 1961, Regulation 132 provides the minimum qualifying service for pension. Accordingly, the minimum period of qualifying service (without weightage) actually rendered and required for earning service pension shall be 15 years. Therefore, Regulation 132 in clear terms stipulates that the actually rendered service is to be taken into consideration for reckoning the qualifying service for grant of pension.

6. Section 1 under the Territorial Army Note for the Reader defines the service to qualify for pension. All embodied service rendered in continuation or in broken spells shall qualify for pension. For calculation of the total embodied service, the break in embodied service due to disembodiment shall be treated as condoned. But the period of break itself shall not be treated as qualifying service for pension. In the present case, it is not in dispute that the writ petitioner has put in the embodied service of 5 years and 97 days and the unembodied service of 12 years and 306 days out of the total service of 18 years and 38 days. Therefore, he is ineligible for grant of pension under the Pension Regulations for the Army, 1961. Pertinently, the writ petitioner was discharged

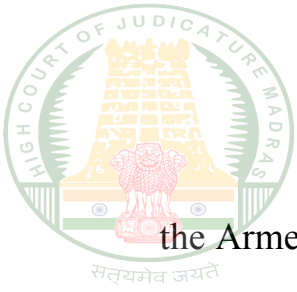


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from service on 19.07.1991. The application before the Armed Forces Tribunal itself has been instituted in the year 2019, after a lapse of 28 years. Long delay is also a ground to reject the claim. That apart, the petitioner has not satisfied the eligibility criteria as fixed under the Pension Regulations for the Army.

7. The argument as advanced by the learned counsel appearing on behalf of the petitioner is that the application of Territorial Army Services per se cannot be taken into consideration in the present case, since the case of the petitioner can be considered under the category of Reservist. It is hard to accept the proposition, in view of the fact that each category of services in the Indian Army are distinct and the nature of recruitment and service are also distinct and different. The application of pension rules is to be made with reference to the nature of service rendered by a person in the Indian Army. Thus the question of treating the petitioner in the reservist category would not arise at all. The petitioner since enrolled in the Territorial Army and discharged by the Army in the year 1991, the pension rules applicable for the Territorial Army alone is to be taken into consideration for grant of pension.

8. In view of the above facts and circumstances, this Court does not find any infirmity or perversity in respect of the findings and the decision made by



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the Armed Forces Tribunal and therefore the order impugned stands confirmed

and the writ petition is dismissed. No costs. Consequently, the connected

Miscellaneous Petitions, if any, are closed.

[S.M.S., J.] [K.R.S., J.]
14.02.2025

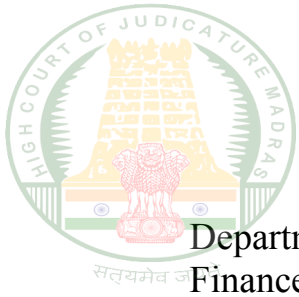
Index: Yes/No

Speaking/Non-speaking order

gd

To

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Chennai.
- 2.The Union of India,
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New Delhi.
- 3.The Chief of Army Staff,
Sena Bhavan, Army Head quarters,
New Delhi.
- 4.The Secretary,
Ministry of Public grievances,
Department of Pension and Pensioners,
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