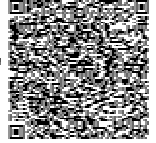


2025:PHHC:006069-DB

CWP-35332-2024 (O&M)
Date of Decision: 16.01.2025

Union of India and others

...Petitioners

Vs.

Avtar Singh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present Mr. Anil Chawla, Advocate for the petitioners.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Apart from the fact that this writ petition filed in the year 2024, challenging the order dated 30.09.2019, after a period of almost five years, which remains unexplained and after the application moved for seeking leave to appeal was also rejected by the AFT on 24.04.2023, we find that the respondent-applicant had after doing regular service with the armed forces which was pensionable, was re-enrolled in Defence Security Corps (DSC) on 29.01.2005 and was discharged from service on 31.01.2014, after completion of 10 years and 3 days of service in the DSC, while he was due for further extension in service upto 13 years.

2. The discharge was on account of 20% disability which was made attributable to service and the disability element was also granted w.e.f. 01.02.2014. The respondent-applicant prays for grant of service element of disability pension in addition to disability element. The AFT after having

considered the fact that he had been prevented from working upto the period of 13 years and had been released on the ground of disability, directed to grant him the benefit of service element. It further directed rounding off 20% disability element to 50% disability element w.e.f 01.02.2014, in terms of **Union of India and others vs. Ram Avtar 2014 SCC Online SC 1761.**

Arrears were also directed to be released along with interest @ 8% per annum.

3. Learned counsel for the appellants assails the order of the AFT dated 30.09.2019, on the ground that once the respondent-applicant had already been granted regular pension, there was no occasion to grant the benefit of service element for the period of service rendered in the regular army which was independent of the service rendered with the DSC w.e.f. 29.01.2004 and he had been discharged on completion of 10 years and 3 days of service alone w.e.f. 31.01.2004, he would not be entitled for service pension in terms of Rule 126 of the Pension Regulations for the Army, 1961.

4. We find the arguments to be misconceived and accordingly rejected the same. As per Regulation 266 of the Regulation, 1961, grant of pensionary awards to the personnel of the Defence Security Corps shall be governed by the same general rules as are applicable to combatants of the Army, except where they are inconsistent with the provisions of the regulations in this chapter. Thus, if a person has been enrolled in the DSC, it would be an independent service to be considered for the purpose of grant of service pension. However, the respondent-applicant did not complete the full period of 15 years of service with the DSC, he would not be entitled to full

pension but while granting disability pension, the service element cannot be ignored. More so, as 10 years and 3 days of service had already been rendered by him with the DSC, where after he was discharged on medical grounds and granted disability of 20%.

5. Keeping in view thereto, the directions for counting service element of disability pension by the AFT does not warrant any interference and that apart the order of rounding off passed by the AFT is to grant full relief in terms of the judgment in Ram Avtar’s case (supra), which too does not warrant any interference. The writ petition is totally misconceived and is accordingly dismissed.

6. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

16.01.2025
rajesh

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|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |