



2025:DHC:9012-DB



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

+ **W.P.(C) 1124/2024**

SMT M MEENA

.....Petitioner

Through: Ms. Pallavi Awasthi and Ms.
Vaibhavi Mittal, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Jagdish Chandra Solanki,
CGSC with Mr. Sujeet Kumar, Adv. and Mr.
Vivek Nagar, GP for UOI with Sgt. Manish
Kumar Singh and Sgt. Mritunjay (Air Force)
Legal Cell

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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09.10.2025

OM PRAKASH SHUKLA, J.

1. By way of the present writ petition under Article 226 of the Constitution of India, the petitioner seeks grant of pro rata pension in favour of her husband from the date of his discharge from the Indian Air Force¹ till his demise on 16.04.2008 with all consequential benefits with interest @ 14% per annum and thereafter, grant of family pension on pro rata basis to the petitioner herself w.e.f. 16.04.2008. Further, the order dated 29.03.2023 issued by the respondents whereby the respondents refused to grant pro rata pension to the petitioner has been assailed before this Court.

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2. Shorn of unnecessary details, the brief factual background of the instant petition is that the petitioner herein is the widow of Ex CPL V. Amudhan (Service No.731209-A) who was enrolled in the IAF on 01.01.1998. He served for 10 years, 3 months and 16 days in active service after which he sought discharge for alternate civil employment. The husband of the petitioner had expired on 16.04.2008. It is stated that the petitioner herein, being the lawfully wedded wife of the deceased, is entitled to family pension on pro rata basis.

3. It is stated that the aforesaid Ex CPL V. Amudhan had applied for civil post in a Bank through proper channel and was duly granted a No Objection Certificate (NOC) which permitted him to be appointed as a Probationary Officer in the Bank. It is stated that his discharge from service for the aforesaid purpose was recorded in his discharge book and a certificate dated 15.04.2020 has been placed on record, which was issued by the State Bank of India to the effect that V. Amudhan had joined the State Bank of Mysore (subsidiary of State Bank of India) on 25.05.1998 till 16.04.2008 i.e his demise and that he had served as Deputy Manager, T. Nagar Branch, Chennai, Tamil Nadu towards the end of his term.

4. The petitioner had preferred W.P.(C) 11713/2021 for the grant of pro rata pension before this Court on grounds of parity with one Ex Cpl Brijlal Kumar and Ex Cpl GK Srivastava which came to be dismissed *vide* order dated 14.12.2021 with the direction to the respondents herein to consider the case of the petitioner in light of the decisions in ***Govind***



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Kumar Srivastav v UOI² and Brijlal Kumar v UOI³ and grant pro rata pension to the petitioner if found similarly placed as the aforesaid.

5. Acting upon the abovementioned directions of this Court, by way of order dated 29.03.2023, the respondents did not find the petitioner as similarly placed since no evidence was brought on record to prove that her husband had applied for civil post as in the abovementioned cases. Thus, the respondents refused to grant pro rata pension to the petitioner citing reasons that there were no records of the NOC allegedly issued to V. Amudhan by the IAF permitting him to join civil employment and that the deceased did not complete the minimum service requirement of 15 years for the grant of pension. It was further stated therein that the deceased had already been discharged on 16.04.1998 but he gave the interview for the civil job only on 04.05.1998. Further, the NOC was obtained to join State Bank of India, however, the deceased had instead joined State Bank of Mysore.

6. Upon the said rejection of the claim, the present petition came to be filed challenging the abovementioned order and seeking grant of pro rata pension and family pension thereafter.

7. Having heard learned Counsel for the parties, we are of the opinion that the petitioner would be entitled to family pension based on the pro rata basis which V. Amudhan, who, according to the petitioner, is her late husband, subject, however, to the respondents being permitted to verify the fact that the petitioner is indeed the wife of late

² 2019 SCC OnLine Del 6425

³ 2020 SCC OnLine Del 1477



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V. Amudhan.

8. We say so for the following reasons:

(i) The objection of the respondents that V. Amudhan had taken employment in the State Bank of Mysore instead of the State Bank of India, despite having applied for discharge to join the State Bank of India as Probationary Officer, in our view, is too facile to merit acceptance. The State Bank of Mysore is one of the State banks functioning under the umbrella of the State Bank of India. Moreover, we find that the certificate dated 15.04.2020, verifying that V. Amudhan had joined the State Bank of Mysore as Probationary Officer, was also issued by the State Bank of India. This distinction, therefore, cannot be a basis to disentitle the petitioner to the benefit of pro rata pension of V. Amudhan.

(ii) In the discharge book, which was filled in by the respondents themselves, V. Amudhan was granted discharge to join as Probationary Officer, as he had been selected for the said position in the Bank.

(iii) There is no dispute about the fact that V. Amudhan had applied for the post of Probationary Officer in the State Bank of India after duly obtaining permission from the respondents. There is also no dispute about the fact that V. Amudhan did, in fact, join as Probationary Officer in the State Bank of Mysore.



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9. Mr. Jagdish Chandra Solanki, learned CGSC for the respondents, primarily objects to the fact that V. Amudhan had sought discharge even prior to the holding of the interview and, therefore, could not be said to have taken discharge for the purposes of joining the alternate employment. He has drawn our attention in this context to the words “are appointed” in Clause (b) of Circular dated 21.04.1988 issued by the Ministry of Defence, which we reproduce thus:

“(b) are appointed in Central Public Enterprises / Central Autonomous Bodies / Central Public Sector Undertaking on the basis of their own application sent through proper channel in response to advertisements and they are permitted to retire prematurely from service in the Defence Services for the purpose of taking the appointment in those Central Public Enterprises / Central Autonomous Bodies / Central Public Sector Undertaking.”

10. This distinction, too, in our view, would not justify the denial of family pension to the petitioner. It may be true that the application for discharge was made prior to the actual appointment of V. Amudhan, as Probationary Officer in the Bank. However, it remains a fact that V. Amudhan was subsequently appointed and did join duty with the State Bank of Mysore. At the cost of repetition, we may reiterate that in V. Amudhan’s discharge book, he was granted discharge on the ground that he had been selected as a Probationary Officer in the State Bank of India.

11. We find the issue to be squarely covered by several decisions including *Govind Kumar Srivastav* (supra) and *Brijlal Kumar* (supra) etc., from which the relevant paragraphs may be reproduced thus:

From Govind Kumar Srivastav:



“15. The very expression ‘pro-rata pension’ is premised on the fact that the Government Servant or Officer in question has not completed the full period of qualifying service for grant of full pension in terms of the applicable Pension Rules. Therefore, what is granted is only that ‘Pro Rata Pension’ commensurate with the years of service completed. In the case of the Commissioned Officers of the IAF, the minimum period to be completed in service for grant of pro rata pension is ten years. The Petitioner satisfies this requirement as he has completed ten years and one month in the IAF.

19. There can be no doubt that in terms of Regulation 121, for the purposes of regular pension a PBOR in the IAF would be entitled to earn pension only after completing 15 years of minimum qualifying service. In fact that was the very question that arose for determination in the context of the Army in *Ram Singh Yadav v. Union of India* (supra). However, in the present case we are not concerned with the issue of grant of regular pension but pro rata pension. Regulation 121 is silent on the aspect of pro rata pension. It is circular/letter dated 19th February 1987 that provides for it but confines the benefit to Commissioned Officers subject to the stipulation that the officer must have completed 10 years of service and must have been absorbed in a PSU thereafter. The Petitioner here fulfils both criteria but is denied the benefit only because he was a PBOR/NCO.

20. A weak attempt was made by learned counsel for the Respondents to suggest that the Petitioner was not permanently absorbed in Air India and therefore his case may stand on a different footing. Apart from the fact that this is factually incorrect, the question really is whether there is any rational basis for holding a NCO/PBOR like the Petitioner disentitled to pro rata pension in terms of the letter/circular dated 19th February 1987, once such PBOR has fulfilled all other conditions for grant of pro rata pension viz., completion of ten years of regular service in the Defence Services followed by absorption in a PSU. The Court is unable to find any such justification or rational basis being put forth by the Respondents to justify the discriminatory treatment. The explanation put forth that grant of the benefit to Ex-Sergeant Kalan was because his was “a special case” and should not be treated as a precedent, and on that basis to deny the Petitioner who is identically placed the same relief, does not stand legal scrutiny.”

From Brijlal Kumar:

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“17. Mention may next be made of another writ petition being W.P. (C) No. 10026/2016, though filed at the same time as the writ petitions aforesaid transferred to the AFT by the Division Bench of this Court vide judgment dated 26th May, 2017, but in which the claim for pro rata pension was premised on the challenge to the letter/circular No. 8(3)/86/A/D(Pension/Services) dated 19th February, 1987 aforesaid, as discriminatory. The said writ petition titled **Govind Kumar Srivastava v Union of India** came to be decided on 9th January, 2019 vide judgment reported as 2019 SCC OnLine Del 6425. The counsels for the respondents Union of India/IAF in this petition also took a preliminary objection to the maintainability thereof for the reason of availability of alternate remedy before the AFT. It was the contention of the counsel for the petitioner therein that the AFT was not entertaining challenges made before it to the circulars; reliance was placed on an order dated 31st July, 2018 of the Principal Bench of AFT holding that the challenge to circulars could not be entertained by AFT in terms of Section 14 of the Armed Forces Tribunal Act as it did not give power of issuance of writ to the AFT. Per contra the counsel for the respondents IAF relied on **L. Chandra Kumar v Union of India**⁴, to contend that AFT was empowered to test the vires of subordinate legislations and Rules. The Division Bench of this Court held that since the challenge in the writ petition before it was to a letter/circular of the MoD on the ground of being discriminatory for granting the benefit of pro rata pension only to Commissioned Officers and not to NCOs/PsBOR, and the AFT vide its order dated 31st July, 2018 had already held that it could not entertain such challenge, there was no merit in the preliminary objection raised by the respondents IAF to the maintainability of the writ petition. Proceeding to decide the writ petition, recording that (i) the petitioner therein enrolled as an Airman on 19th June, 1998; in 2003 he was promoted to the rank of Corporal; (ii) pursuant to an advertisement issued by Air India, the petitioner applied for post of Technical Officer on 10th January, 2007 and on 4th July, 2008, NOC was issued by the respondents IAF permitting the petitioner to take up employment with Air India, which was a PSU; (iii) the petitioner was discharged from the respondents IAF after having served for 10 years and one month on 21st July, 2008 and on 8th August, 2008 joined Air India as a Technical Officer; (iv) the petitioner, on 29th April, 2016 applied to the respondents IAF for grant of pro rata pension and which application was rejected vide response dated 6th June, 2016; (v) the case of the petitioner was that PsBOR/NCOs like the petitioner were being discriminated in the matter of grant of pro rata pension as the payment of pro rata pension only to Commissioned Officers vide letter/circular



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dated 19th February, 1987 was not based on any rational criteria or principle; (vi) it was further the case of the petitioner that certain other PsBOR/NCOs had been allowed pro rata pension; reference was particularly made to the petitioner in **Ex. Corporal Swarup Singh Kalan**⁵ and it was contended that the petitioner Govind Kumar Srivastava was no different; (vii) it was further the contention of the petitioner that the Central Government, in respect of Persons of the Indian Audit and Accounts Department, had amended the Central Civil Services (Pension Rules), 1972 by inserting Rule 37A and allowed pro rata pension to a Government servant who, upon being sent on deputation to PSU, is absorbed there and though the petitioner had also joined a PSU i.e. Air India but was denied pro rata pension; (viii) the respondents contested the petition relying upon Regulation 121 of the Air Force Pension Regulations prescribing qualifying service for Airmen as 15 years and contending that there was no provision for grant of pro rata pensionary benefits to PsBOR; (ix) it was further the defence of the respondents IAF that a few ex-Airmen who had less than 15 years of qualifying service and were discharged from Air Force on being permanently absorbed in HAL during 1960-70 had been granted pro rata pensionary benefits on the direction of the Courts to consider their representation; and, (x) with respect to the petitioner in **Ex. Corporal Swarup Singh Kalan** it was stated that he was granted pro rata pension as a 'special case' and should not be quoted for grant of pro rata pension to other ex-Airmen absorbed in PSUs, it was held (a) that there was no justification put forth by the respondents IAF for denying benefit of pro rata pension to PsBOR/NCOs in the respondents IAF except by saying the Regulation 121 of the Air Force Pension Regulations did not provide therefor, ignoring that such pro rata pension has indeed been granted to Commissioned Officers of IAF notwithstanding that the Air Force Pension Regulations did not envisage such payment; (b) that the basis of differential treatment being accorded to NCOs/PsBOR in the matter of grant of pro rata pension had not been satisfactorily explained by the respondents IAF; (c) that the respondents IAF had also not explained how even in the Central Government, there was a notification dated 30th September, 2000 recognising the grant of pro rata pension for the Government servants absorbed in PSUs, who do not, at the time of such absorption, satisfy the requirements of completing the qualifying service for grant of full pension; (d) that there was no explanation why the NCOs/PsBOR in the IAF had been singled out for a differential treatment in the matter of grant of pro rata pension; (e) that in the case of Commissioned Officers of the respondents IAF, the minimum period to be completed for grant of pro rata pension was 10 years; the petitioner though a PsBOR, satisfied this requirement, having completed 10 years and one month



in IAF; (f) that the Court in *Ex. Corporal Swarup Singh Kalan* supra had only directed consideration of his representation, without examining the vires of circular/letter dated 19th February, 1987; (g) that though it was open to the IAF to, in pursuance to the direction of the Court, reject *Ex. Corporal Swarup Singh Kalan*'s representation but IAF granted pro rata pension to him and the only explanation therefor in the counter affidavits filed by the respondents IAF was that the same was treated as a 'special case'; however it remained unexplained, for what reason it was treated as a 'special case'; (h) that there was no distinction between the petitioner therein and *Ex. Corporal Swarup Singh Kalan*; (i) that though in *Ram Singh Yadav*⁶ supra the Division Bench had held that pro rata pension could not be accorded in the absence of any provision but there was no circular/letter as the circular/letter dated 19th February, 1987 granting pro rata pension to Commissioned Officers, for consideration therein; and, (j) that once the NCOs/PsBOR fulfilled the same conditions as prescribed for Commissioned Officers to get pro rata pension, there was no justification or rational basis for discrimination. Accordingly, the petition was allowed, the rejection by the respondents IAF of the claim of the petitioner therein for pro rata pension was quashed and a direction issued to the respondents IAF to grant pro rata pension to the petitioner, from the date of discharge, in terms of circular/letter dated 19th February, 1987.

18. After the dicta in *Govind Kumar Srivastava* supra, this Court has been inundated with petitions by PsBOR/NCOs fulfilling the conditions as laid down in letter/circular dated 19th February, 1987 for Commissioned Officers, for grant of pro rata pension and a large number of such petitions have been allowed, following *Govind Kumar Srivastava* supra. We also have for the last nearly five months, allowed a large number of such petitions on the very first day when they came up before the Court, directing that if the petitioner/s therein, on verification were found to be similarly situated as *Govind Kumar Srivastava* supra, be granted pro rata pension.”

12. Mr. Jagdish Chandra Solanki has placed reliance on a decision of a Coordinate Division Bench of this Court in *Ramakrushna Sasmal v UOI*⁷. That decision, in our view, is clearly distinguishable. In that case,

⁶ (2005) 116 DLT 486
⁷ 2025 SCC OnLine Del 1388



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the Division Bench particularly noted the fact that the petitioner had applied for discharge from the IAF not to join any public enterprise but to acquire Master's Degree in Electrical Engineering from the Delhi College of Engineering. There is, therefore, no common factor whatsoever between that case and the present one.

13. Though Mr. Jagdish Chandra has drawn our attention to the concluding sentence in paragraph 9 of the decision in *Ramakrushna Sasmal* (supra), which states that the petitioner in that case was not claiming to have applied for BSNL through the proper channel after taking an NOC from the respondents, in the present case, the application of V. Amudhan was clearly through the proper channel, though he may have applied for discharge before actually undertaking the interview for selection as Probationary Officer in the State Bank of India.

14. Once the cobwebs are cleared away, the only hurdles in the petitioner's entitlement to family pension are the facts that V. Amudhan had applied for discharge before undergoing the interview and that he ultimately joined the State Bank of Mysore.

15. For the reasons stated hereinabove, we are of the opinion that these two distinguishing factors cannot be legitimate grounds to hold that V. Amudhan was not entitled to pro rata pension, or to disentitle the petitioner to family pension on that ground. India, after all, is a welfare State.

16. In view of the aforesaid, we hold that the petitioner would be



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entitled to the benefit of the pro rata pension to which V. Amudhan would have been entitled from the date of his discharge till the date of his death, i.e., 16.04.2008, and that the petitioner would be entitled to family pension on that basis thereafter.

17. Needless to say, however, as we have already noted, these entitlements would be subject to verification by the respondents satisfying themselves that the petitioner is indeed the lawfully wedded wife of V. Amudhan and hence, is entitled to family pension.

18. In arriving at this decision, the respondents shall act on the basis of the documents on record in this present writ petition.

19. Subject to the aforesaid verification, let payment of the benefit of pro rata pension of V. Amudhan and family pension as due to the petitioner be released to the petitioner within a period of eight weeks from today, failing which the said amount would carry interest @ 9% per annum till the actual date of payment.

20. Mr. Jagdish Chandra also places reliance on the decision of the Supreme Court in *Union of India v Tarsem Singh*⁸ to contend that the arrears should be restricted to three years prior to the date of filing of the petition.

21. In this context, Ms. Pallavi Awasthi has drawn our attention to order dated 22.07.2025 passed by the Coordinate Bench of this Court



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in a review petition filed in ***Jafor Ali Mollah, Ex CPL 699193 v UOI***⁹, where an identical ground had been taken seeking review of the judgment passed by the Division Bench citing ***Tarsem Singh*** (supra) and praying that arrears be restricted to three years prior to the filing of the passing of the writ petition.

22. The Division Bench had rejected the submission, placing reliance on an earlier decision of another Division Bench of this Court in ***Brijlal Kumar*** (supra). In that case, the Bench had noted the principle that ordinarily arrears are to be restricted to a period of three years prior to the date of filing of the petition, but distinguished that principle in the cases such as the present one, on the following basis:

“We have also considered the aspect of delay. Claim of a large number of petitioners for arrears of pro rata pension, is indeed for more than a decade or two. Ordinarily, they would have been entitled to arrears of three years preceding the petition only. However, in the judgments passed till now and which have attained finality, no such restriction had been placed. We are hesitant to treat these petitioners differently and thus opt to grant the same relief i.e. of full arrears, as has been granted till now.”

23. Accordingly, the prayer that the arrears should be restricted to three years prior to the date of filing of the writ petition is rejected.

24. Though it was sought to be contended by Mr. Sujeet Kumar who appears on behalf of Mr. Jagdish Chandra Solanki, learned CGSC, that arrears would be paid only from three years prior to the date of



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institution of the petition, he was permitted to produce the order of the Supreme Court to that effect. He has cited order dated 06.09.2024, passed by the Supreme Court in *UOI v N. Ramaseshan*¹⁰, which does not specifically state that arrears would be payable only from three years prior to the date of institution of the petition.

25. No order staying the operation of the order passed by the Coordinate Bench of this Court in *Jafor Ali Mollah* (supra) has been brought to our notice. Nor is it the case of the respondent that the said order has been carried in appeal to the Supreme Court.

26. In that view of the matter, in the interest of consistency, we do not deem it appropriate to take a view contrary to the view taken in *Jafor Ali Mollah* (supra). The arrears would be payable from the date of discharge.

27. The writ petition stands allowed to the aforesaid extent with no order as to cost.

28. Pending application(s), if any, stand disposed of.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

OCTOBER 9, 2025/aky/AR/rjd