

ARMED FORCES TRIBUNAL, REGIONAL BENCH, CHENNAI

O.A.No.142 of 2013

Thursday, the 16<sup>th</sup> day of January, 2014

THE HONOURABLE JUSTICE V. PERIYA KARUPPIAH  
(MEMBER - JUDICIAL)

AND

THE HONOURABLE LT GEN ANAND MOHAN VERMA  
(MEMBER – ADMINISTRATIVE)

Ex J.W.O. R.P. Krishna Rao  
S/o Late Sreeramulu  
(No.267435 of Indian Air Force)  
Flat No.203, Brundavan Towers  
Brundavan Colony  
Dr. AS Rao Nagar, ECIL Post  
Secunderabad (AP)-560 062.

... Applicant

By Legal Practitioners:  
M/s. V.K. Sathyanathan &  
S. Ranganathan

Vs.

1. Union of India  
Represented by its Secretary  
Ministry of Defence, South Block,  
New Delhi 110011.
2. Chief of the Air Staff,  
Air Headquarters (Vayu Bhawan)  
Rafi Marg, New Delhi-110011.
3. The Air Officer Commanding  
Air Force Record Office  
Subroto Park, New Delhi-110 010.
4. The Principal Controller of Defence Accounts (Pensions),  
Office of PCDA (P), Draupadighat,  
Allahabad, U.P-211014.

5. The Accounts Officer  
Office of the D.P.D.O.  
Mudfort, Secunderabad  
Andhra Pradesh-500 003.

... Respondents

By Mr. B. Shanthakumar, SPC

### **ORDER**

(Order of the Tribunal made by  
Hon'ble Justice V. Periya Karupiah, Member-Judicial)

1. This application is filed by the applicant for the reliefs to issue a direction to the respondents to pay pension to the applicant in the rank of J.W.O Group-II (Group Y) with all consequential benefits with effect from 1.1.1996; to issue a direction to the respondents to revise and pay the revised pension as per the VIth C.P.C. Report with effect from 1.1.2006 and to pay the same with entire arrears; and to pay the arrears with 12% interest and for costs.

2. The factual matrix of the applicant's case would be as follows :-

The applicant joined the Indian Air Force on 22.8.1964 and his trade in the I.A.F. was Meteorological Assistant. He secured higher ranks due to sheer hard work and physical fitness and he was promoted to the rank of J.W.O with effect from 1.6.1985. He was discharged from service on

31.8.1985 after completing the service of 21 years and 10 days. His tenure at the rank of J.W.O was three months. As per Pension Regulations for the Air Force, 1961, a P.B.O.R. has to serve minimum 02 years in a rank to fetch pension in that rank and OIC Records is empowered to condone deficiency upto 03 months. The said regulation was revised and reduced to 10 months with the same condonation provision. At the time of discharge of the applicant, the applicant was entitled to pension in the rank of Sergeant as per those conditions in vogue. The Vth Central Pay Commission recommended to waive the 10 months period for calculating the pension and it was decided to grant pension in the rank last held by the individual. The Government Order No.1(10/99/D(Pen/services) dated 7.6.1999 was issued to that effect. However, the pension was calculated in the minimum of the revised scale of the rank held by the individual and the said impediment adversely affected the P.B.O.Rs, because the pension of PBORs was calculated on the maximum of the pay scale earlier. The Government had removed the said impediment when it was brought to its notice, through a letter No.B/39013/AG/PS-4 (a&c)/131/A/D(Pen/sers) dated 9.2.2001 in which the pension of all pre-96 retirees of Armed Forces Personnel will be revised on the basis of rank/group last held by the individual and the revised pay scale connected thereto even if the rank was held for less than 10 months before retirement. As per the clarification made in the said letter, all the pre-96 retirees will be eligible for pension in the last rank held and the

pension will be calculated based on the maximum of the scale of the rank last held. However, the respondents did not revise the pension of the applicant in accordance with the decision of the Government. In the meanwhile, VIth Central Pay Commission recommended that the pension of pre-2006 retirees be fixed in accordance with Annexure-III of GOI MoD letter No.17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008. In the said Annexure III note 1, the rank held at the time of discharge is considered for pension. However, the pension of the applicant was not revised as per Annexure-III and, therefore, the applicant moved the authorities by sending e-mail queries. Since the said queries have got deleted in the out-box of the applicant's mail, they could not be produced. In consideration of the queries, the Air Force Record Office issued a letter to the P.D.A. to revise the pension in the rank of J.W.O. in its letter No.RO/3201/1/P&W (Rev Cell-04) dated 26.5.2009. However, the P.D.A. was not ready to revise the pension as the last rank held was mentioned in the P.P.O. of the applicant as Sergeant. The A.F.R.O. wrote a letter to the P.C.D.A (P) requesting to issue corrigendum P.P.O. indicating the rank of the applicant as J.W.O. in its letter No.RO/3201/1/P&W (Rev Cell-04) dated 15.9.2009. After few correspondence, the P.C.D.A (P) had issued a corrigendum to P.P.O. and the same was forwarded to the P.D.A by A.F.R.O. in its letter No.RO/3202/1/PRE-86 (PCDA) dated 7.1.2011. Thus the P.P.O. of the applicant was amended as J.W.O Group II, as the last rank held by the

applicant. The Government decided to bridge the gap between pre-2006 and post-2006 pensioners and a Circular No.430 dated 10.3.2010 was issued by P.C.D.A (P) and in table no.117 of the Circular, the particulars given is applicable to J.W.O. Group 'Y' (Group II). As per the revised table, the pension of the applicant was not revised at Rs.8411/-. Still the A.F.R.O. issued a letter directing the P.D.A. to revise the applicant's pension in the rank of Sergeant. On a complaint made by the applicant to P.C.D.A (P), it directed the P.D.A. to revise the pension of the applicant in the rank of J.W.O. in its letter No.AT/DPDO/III/Sec'bad/2011 dated 16.3.2011. The PCDA (P) has mentioned about the Circular No.397 only in the letter dated 16.3.2011 despite the applicant is entitled to revision of pension in the rank of J.W.O Group II from the rank Group 'Y' with effect from 1.1.1996. In a similar case [O.A.No.20 of 2012], the Armed Forces Tribunal, Regional Bench Kochi, has considered the revision of pension to a Sergeant on the last held rank as per the Vth Central Pay Commission Report and the subsequent letter dated 7.6.1999 in Government Order No.1(10/99/D(Pen/services) and letter No.B/39013/AG/PS-4 (a&c)/131/A/D(Pen/sers) dated 9.2.2001. In view of the facts that the respondents have not revised the pension of the applicant on the last rank held as J.W.O. Group-II (Group Y) and to revise the pension as per the VIth Central Pay Commission Report from 1.1.2006, it has become necessary for the applicant to approach this Tribunal for issuing directions. The respondents

may be directed to revise the pension of the applicant from the rank of Sergeant into the rank of J.W.O as per the Government Order dated 7.6.1999 and the letter dated 9.2.2001 and the subsequent VIth Central Pay Commission Report and the Government Orders in GOI MoD letter No. 17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008. Accordingly the application may be allowed.

3. The contentions raised in the Reply Statement of the respondents would be as follows :-

The applicant was enrolled in IAF on 22.8.1964 as Meterological Assistant and was discharged on 31.8.1985 after completing 21 years of qualifying service. He was sanctioned service pension at Rs.301/- per month with effect from 1.9.1985 for Sgt (Group-II) vide PPO No.AF/S/C/F/NA/7074/1985. The applicant was promoted to the rank of Junior Warrant Officer (JWO) (Group-II) with effect from 1.6.1985 and held the said rank till his discharge for a period of three months. An individual had to serve for a period of 02 years in a particular rank in order to obtain pension for that rank. However, the Government relaxed the requirement of 02 years into 10 months based on the Judgement of Hon'ble Apex Court. Accordingly, the pension of the applicant was assessed at the lowest acting paid rank or substantive rank and the lowest group held by him in the last 10 months of service qualifying for pension. A competent authority was

empowered to condone upto three months the period towards deficiency of service in a particular rank except on voluntary retirement. The said provisions contained in Paras-122 and 123 of Pension Regulations for the Air Force, 1961 (Part-I) have not been amended or suspended till date and is in vogue for Air Warriors, who retired prior to 1.1.2006. Since the applicant held JWO rank only for three months, his service pension was sanctioned for the rank of Sgt (Group-II) as per the extant policies and rules. The claim of the applicant in the present application is similar to the claim of the applicant in TA No.339/2010 filed by Ex-JWO Bharat Singh Khatana before AFT Principal Bench, New Delhi. The said application was allowed by the Principal Bench, New Delhi, in its Judgement dated 29.1.2010 and a Civil Appeal in CA No.21714/2011 has been filed before Hon'ble Apex Court and the same is pending. The applicant is, therefore, entitled to revised pension for the rank of Sgt (Group-II) at Rs.2107/- per month with effect from 1.1.1996. If the revised pension is calculated as per the Government of India MoD letter No.B/39013/AG/PS-4(a&c)/131/AD (Pension/Services) dated 9.2.2001 for the rank of JWO, the revised pension to the applicant payable from 1.1.1996 would be at Rs.2049/- per month. If the revised pension is calculated as per 6<sup>th</sup> Central Pay Commission recommendation with effect from 1.1.2006 for Sgt (Group-II) in terms of Annexure-I of GOI MoD letter No.17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008 and PCDA (P), Allahabad Circular No.397 dated 18.11.2008, the applicant would be entitled

to the revised pension at Rs.5175/- per month with effect from 1.1.2006. If it is calculated for the rank of JWO (Group-II) as per Annexure-III in terms of the above said Government orders, the revised pension payable to the applicant would be at Rs.6107/-. Since the revised amount as per Annexure-III is more beneficial to the applicant, it was conveyed to him through the letter No.RO/3201/1/P&WW (Rev Cell-04) dated 22.4.2009. A Circular was issued by PCDA (P), Allahabad, in Circular No.430 dated 10.3.2010 in accordance with GOI MoD letter No.PC10 (1)/2009-D (Pen/Pol) dated 8.3.2010. The revision of pension as per Government orders is based on the rank for which pension is sanctioned and not for the rank last held. As per Table No.113 annexed in the said Circular No.430 dated 10.3.2010, the applicant is entitled for revised basic pension at Rs.6223/- per month for the rank of Sgt (Group-II). The requirement of 10 months in the last rank service to earn service pension of that rank has not been waived in respect of Pre-1.1.2006 retiree PBORs. Therefore, the pension sanctioned to the applicant for Sergeant rank is correct as per the existing policy and the application may be dismissed accordingly.

4. A Rejoinder has been filed by the applicant reiterating the earlier stand taken by him in the Original Application and controverting the objections raised by the respondents. The applicant had also extracted the relevant portion of the letter dated 9.2.2001 for the fixation of the revised pension on



the last rank held at the time of discharge. The applicant has also sought for the grant of reliefs as asked for in the application.

5. On the above pleadings, the following points were framed for consideration in this application :-

- 1) Whether the applicant is entitled to a revised pension at the rank of JWO Group-II (Group Y) on and from 1.1.1996 or at the rank of Sgt Group-II as contended by the respondents ?
- 2) Whether the applicant's pension should be revised as per the recommendation of VIth Central Pay Commission on and from 1.1.2006 at the rank of JWO Group-II (Group Y) or at the rank of Sgt (Group-II)?
- 3) If so, whether the applicant is entitled for interest at 12% per annum on the payment of arrears of pension ?
- 4) To what relief the applicant is entitled for ?

6. Heard Mr. S. Ranganathan, Learned Counsel for the applicant and Mr. B. Shanthakumar, Learned Senior Panel Counsel assisted by JWO M. Tiwari, 23-ED, Air Force, Avadi, Chennai, appearing for the respondents.

7. The Learned Counsel for the applicant would submit in his argument that the applicant joined the Indian Air Force on 22.8.1964 in the trade Meteorological Assistant and he secured higher ranks due to his hard work and physical fitness and thus he was promoted to the rank of Junior Warrant Officer (JWO) (Group-II) with effect from 1.6.1985. He would further submit that the applicant held the same rank for three months till he was discharged on 31.8.1985 and the applicant had a service of 21 years and 10 days. He would also submit that the applicant was granted pension in the rank of Sergeant only as per the conditions in vogue at that time. During the implementation of Vth Central Pay Commission recommendations, the minimum service in a rank to fetch pension in that rank has been waived by the Government in its letter dated 7.6.1999 produced in Annexure A-2, which was further modified by another letter of Government of India dated 9.2.2001, which was produced in Annexure A-3. Relying upon the said letters of Government of India, the Learned Counsel would submit that the pension granted to the applicant in the rank of Sergeant should have been revised in the rank of JWO Group-II (Group Y) as per the tenor of those letters and his pension ought to have been revised by the respondents. However, the respondents 3 and 4 did not take any steps to revise the pension of the applicant which is arbitrary and illegal. He would draw our attention to the Judgement of Armed Forces Tribunal, Kochi Bench, made in O.A.No.20 of 2012 dated 20.3.2013 in between Ex Sgt Vasudevan K Vs.

Union of India and Others, and would argue that the same principle may be applied to the present case as the rank last held by the applicant ought to have been taken for calculation of pension as per the benefits given by those letters of Government of India. He would further insist in his argument, the VIth Central Pay Commission had also recommended benefits to the pensioners and in no case, a pre-2006 retiree could be paid less than 50% of the maximum of pay in the Pay Band and Grade Pay thereon corresponding to the pre-revised pay scale from which the applicant retired. He would also quote a Judgement of Hon'ble Principal Bench made in O.A.No.270 of 2010 in between Sqn. Ldr. Vinod Kumar Jain & Others Vs. Union of India. He would seek for revision of pension of the applicant in terms of the said Judgement. He would further submit that 33 years of service required for 50% of the pension is also dispensed with in the recommendation of VIth Central Pay Commission and, therefore, the applicant is entitled to 50% of the emoluments of J.W.O., who retired after 1.1.2006. He would further submit that the 3<sup>rd</sup> respondent wrote a letter to 5<sup>th</sup> respondent on 26.5.2009 (Annexure A-5) and thereby recommended for the revised pension at Rs.6107/- per month as per the recommendation of VIth Central Pay Commission, which is more beneficial to the applicant. However, the 3<sup>rd</sup> respondent has not considered the revision of pension from 1.1.1996 and thereafter to calculate the revised pension as per the recommendation of VIth Central Pay Commission from 1.1.2006. He would further submit that

the respondents have amended the P.P.O. issued to the applicant as the last rank held as J.W.O., but the amendment caused in the letter of Government of India dated 9.2.2011 was not implemented and the applicant was not granted revised pension from 1.1.1996. He would, therefore, request us to grant the revised pension to the applicant in the rank of JWO Group-II (Group Y) as he held the said rank at the time of his discharge and also to revise the pension as per the recommendations of VIth Central Pay Commission from 1.1.2006 with interest at 12% for the arrears. He would, therefore, request us to order the application as prayed for.

8. The Learned Senior Panel Counsel assisted by JWO M. Tiwari, Air Force, Chennai, would submit in his argument that the applicant was promoted to the rank of JWO Group-II with effect from 1.6.1985 and held the rank till the date of his discharge for three months only and as per Regulation-122 of Pension Regulations for the Air Force, 1961 (Part-I) and Government of India MoD letter No.1(4)/82/D (Pension/Sers) dated 22.11.1983, an individual's pension is assessed on the lowest acting paid rank or substantive rank and the lowest group held by him during the last ten months of his service qualifying for pension. He would also submit that as per Para-123 of Pension Regulations for the Air Force, 1961 (Part-I), "A competent authority may condone a deficiency of service of a particular rank not exceeding three months, except on voluntary retirement" and, therefore,

the applicant's pension was assessed in the rank of Sgt (Group-II) since he did not have the period of 10 months or 07 months with condonation of 03 months in the rank of JWO Group-II. He would further submit that the revision of pension to the applicant should, therefore, be in the cadre of Sgt (Group-II) with effect from 1.1.1996 and the applicant would be entitled to revised pension in terms of Table-134 annexed to MoD letter No.1(2)/98/D(Pen/Sers) dated 14.7.1998 at Rs.2107/- per month. If it is calculated on the basis of GOI MoD letter No.B/39013/AG/PS-4 (a&c)/131/A/D(Pen/Services) dated 9.2.2001 in the rank of JWO (Group-II), the pension payable would be Rs.2049/- and it is not beneficial to the applicant. He would also submit that the revised pension as per VI Central Pay Commission for the applicant on and from 1.1.2006 would be Rs.5175/- in the rank of Sgt (Group-II) as per Annexure-I of GOI MoD letter No.17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008, and the Circular No.397 dated 18.11.2008. If it is calculated for the rank of JWO (Group-II), the revised pension payable with effect from 1.1.2006 to 30.6.2009 would be at Rs.6107/- as per Annexure-III of the above Government Order dated 11.11.2008, and it would be beneficial to the applicant. He would also submit that the said fact was conveyed to the applicant in the letter dated 22.4.2009. The Circular No.430 dated 10.3.2010 issued by the PCDA (P), Allahabad, in accordance with GOI MoD letter No.PC10 (1)/2009-D (Pen/Pol) dated 8.3.2010 would lay that the revision of pension as per Government

orders is based on the rank for which pension is sanctioned and not for the rank last held. As per Table No.113 annexed with Circular No.430, the applicant is entitled to revised basic pension at Rs.6223/- per month for the rank of Sgt (Group-II). He would further submit that the applicant has come to Court without waiting for the grant of revised pension in the above lines and the application is devoid of merit and, therefore, it may be dismissed.

9. We have given anxious thoughts to the arguments advanced on either side. We have also perused the documents produced on either side.

10. **Points 1 & 2:** The indisputable facts are that the applicant joined the Indian Air Force on 22.8.1964 in the trade Meteorological Assistant and he was promoted to the rank of J.W.O. with effect from 1.6.1985 and having held the said post for three months, he was discharged from service on 31.8.1985. The applicant was given service pension for the pensionable service rendered by him for a period of 21 years in the rank of Sgt (Group-II). Since the applicant did not hold the post of J.W.O. for ten months, the previous rank held by the applicant as Sgt (Group-II) was taken for the assessment of pension. The said assessment was done on the basis of the pension regulations and policies of the Government in vogue at that time. It is further not disputed that Pension Regulations for the Air Force, 1961 (Part-I), Regulations-122 and 123 and the letters of GOI MoD issued in this

aspect would govern the grant of pension to the eligible personnel having pensionable service. According to the said provisions, the period of holding two years in any rank should be taken for assessment of pension and it has been amended and reduced to 10 months period.

11. But the case of the applicant would be that the said period of 10 months stipulated to have held lastly for the purpose of assessing the pension has been waived in the subsequent letters of Government of India, Ministry of Defence, New Delhi, produced in Annexures A-2 and A-3 dated 7.6.1999 and 9.2.2001 respectively. According to the applicant, the recommendations of Vth Central Pay Commission introduced a new pension policy and the anomaly in revision of pension of PBORs has been removed by virtue of the letter of GOI MoD letter No.1(1/99/D(Pen/services) dated 7.6.1999 (Annexure A-2). The relevant portion in the said letter dated 7.6.1999 para 2.2 (a) would be as follows :-

*"(a) The revision of service pension in terms of these modified orders in respect of PBOR retirees will not be beneficial except for the rank of JCOs granted Hony. Commission of Lt. and Captain as the service pension is calculated at the maximum of the pay scale including 50% of highest classification allowance, if any, of the rank and group in which paid."*

12. According to the said provisions of the Government letter, the pension of all the pre-1.1.1996 retirees in the rank of PBOR in all the three services for 33 years of qualifying service was directed to be fixed at not less than 50% of the maximum pay in the revised scale of pay introduced with effect from 1.1.1996 including 50% highest classification allowance, if any, of the rank and group held continuously for 10 months preceding retirement.

13. However, the Government of India, Ministry of Defence issued another letter No.B/39013/AG/PS-4 (a&c)/131/A/D(Pen/sers) dated 9.2.2001 produced in Annexure A-3, clarified certain anomalies that had cropped up due to enforcement of policy vide Government letter No.1(1)/99/D(Pen/services) dated 7.6.1999, which caused loss to the pensioners. According to the said provisions of the letter, the pension of pre-1.1.1996 retirees from the three armed forces will be revised on the basis of the rank/group last held by the individual and the revised pay scale connected thereto, even if the rank/group was held for less than 10 months before retirement. Such pension was directed to be reduced proportionately if the qualifying service is less than 33 years, but other criteria to earn pension was allowed to be continued. The Government of India letter No.B/39013/AG/PS-4 (a&c)/131/A/D(Pen/sers) dated 9.2.2001 would run as follows :-



*"I am directed to refer to this Ministry's letter No.1(1)/99/D(Pen)/Sers) dated 7-6-99 and amended wherein the government has decided that w.e.f. 1-1-96 pension of all armed forces pensioners, irrespective of their date of retirement shall not be less than 50% of the minimum of the revised scale of pay introduced w.e.f. 1-1-96. PCDA (P) Allahabad has not been giving the benefit of provisions of pension under the modified parity to these officers who have not held their rank for last 10 months before retirement as per prevailing rules. However there is no such stipulation on the government order under reference.*

*The matter has been reconsidered in consultation with O/O CGDA, it is clarified that the pension of all pre-96 retiree Armed Forces Personnel will be revised on the basis of the rank/group last held by the individual and the revised pay scale connected there to, even if the rank/group was held for less than 10 months before retirement. Such pension will be reduced proportionately if the qualifying service is less than 33 years, other criteria to earn pension will continue to apply.*

*This issues with the concurrence of the Ministry of Defence (Finance/Pension) vide their UO No.148/Pen/01 dated 12-1-2001."*

*(Emphasis supplied)*

14. The aforesaid letter has thus clarified that the requirement of 10 months' service in the rank or group to earn pension of that rank or group was taken away and it is sufficient for the pensioner to hold the post even for one day at the time of his discharge to earn the pension for that post.

15. In a similar facts and circumstances, the Armed Forces Tribunal, Kochi Bench, has also decided about the rank to be considered for the assessment of revised pension with effect from 1.1.1996 as per the letter dated 7.6.1999 and 9.2.2001, and Paras-122 and 123 of Pension Regulations for the Air Force, 1961 (Part-I) made in O.A.No.20 of 2012 dated 20.3.2013 in between **Ex Sergeant Vasudevan. K. Vs. Union of India and Others.** The following passage is relevant for the purpose of this case :-

*"10. In our view, the respondent No.2 as also the respondent No.4 while passing the order Annexure A8 overlooked the terms and conditions of the Government letter dated 9<sup>th</sup> February, 2001 whereby the requirement of 10 month's service in a particular rank or group had been taken*

away, therefore, there was no question of invoking the provisions of Regulations 122 and 123 of the Pension Regulations for the Air Force, 1961 for the condonation of the deficiency in service. According to the Government of India letter dated 9<sup>th</sup> February 2001, the pensions of all pre 1.1.1996 retirees were required to be revised according to the group/rank last held by them. Therefore, the question of denying pension to the applicant of the rank of Sergeant only on the ground that he had not rendered 10 months service on the rank of Sergeant was not proper. Had the respondents No.2 and 4 perused the Government letter dated 9<sup>th</sup> February 2001 (Annexure A2) they would not have taken the decision Annexure A8. More so, the second contention of the respondents that the pension of the rank of Sergeant was not beneficial to the applicant also has no substance. In this connection reference may be made to para 2.2 (b) of the Government letter dated 7<sup>th</sup> June 1999 (Annexure R2) whereby a provision has been made for grant of pension on the maximum pay for 33 years of qualifying service, subject to a minimum pension of Rs.1913/- per month. In case the qualifying service is less, the pension is to be reduced proportionately. Therefore we are unable to understand as to how the respondents contend that the pension of the rank of

*Sergeant was not beneficial to the applicant. It appears that the respondents intended to calculate the applicant's pension of the rank of Sergeant on the minimum of the pay of that rank against the true spirit of the letter dated 7<sup>th</sup> June, 1999, which virtually requires to fix the pension on the basis of the maximum of the pay, therefore, this contention of the respondents has no substance."*

16. So far as the applicant is concerned, he retired on 31.8.1985, which is prior to 1.1.1996, in the post of JWO Group-II (Group Y). Therefore, the applicant should not have been denied the revision of pension in the rank of JWO Group-II and the said denial is contrary to the guidelines issued by the Government of India, Ministry of Defence, in its letter dated 9.2.2001 (Annexure A-3). Therefore, the contentions raised by the Learned Senior Panel Counsel that the said period of 10 months as stipulated in Para-123 of Pension Regulations for the Air Force, 1961 (Part-I) has not been waived so far, cannot be correct. Similarly, the calculations arrived at by the respondents both in their pleadings and arguments for the rank of Sgt (Group-II) of the applicant, cannot be sustained. The applicant should have been given revised pension on and from 1.1.1996 in the rank of JWO Group-II (Group Y) as per the relevant Table given, for 21 years pensionable

service plus weightage for the purpose of calculating the revised pension as on 1.1.1996.

17. As regards the revised pension of the applicant with effect from 1.1.2006 as per the recommendations of VIth Central Pay Commission, the respondents have not disputed much. However, it was submitted by the respondents that the revision of pension with effect from 1.1.2006 in the rank of Sgt (Group-II) is more beneficial than JWO Group-II (Group Y) for the applicant. As found in the earlier paragraph, the applicant should have been considered in the rank of JWO Group-II (Group Y) on the date of his discharge for the revision of pension with effect from 1.1.1996. When the revised pension for the applicant was calculated on the basis of the last rank held by him as JWO Group-II (Group Y) in accordance with Government of India MoD letter dated 9.2.2001, the revised pension shall also be calculated with effect from 1.1.2006 and it cannot be changed into the previous rank of Sgt (Group-II). The revised pension for the applicant on the basis of the recommendations of VIth Central Pay Commission shall be calculated as per GOI MoD letter No.17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008 (Annexure A-4). However, the respondents would contend that the Circular No.430 dated 10.3.2010 issued by the PCDA (P), Allahabad, in respect of Sgt (Group-II), who completed 21 years of pensionable service shows the payment of revised pension at Rs.6223/-, which is more than the rank of

JWO's revised pension calculated as per Annexure A-3 produced in A-4 i.e. Rs.6107/-. The further contention of the respondents would be that more beneficial remedy should be given to the applicant and, therefore, it was recommended that Circular No.430 to be followed. We have already found that the rank lastly held by the applicant should be taken as JWO Group-II (Group Y) to which Annexure A-3 is applicable. It is for the respondents to give more benefit, calculated for the rank of Sgt (Group-II), but the said benefit should have been given to the applicant in the rank of JWO Group-II (Group Y).

18. From the above discussion, we find that the applicant is entitled to revised pension in the rank of JWO Group-II (Group Y) with effect from 1.1.2006 as per the Government of India, Ministry of Defence letter No.17(4)/2008(1)/D(Pen/Policy) dated 11.11.2008 and the Circular issued by the PCDA (P), Allahabad, in Circular No.430 produced in Annexure R-4, whichever is beneficial to the applicant. Accordingly, both the points are decided in favour of the applicant.

19. **Point No.3:** In the above points, we have found that the applicant is entitled for the revised pension with effect from 1.1.1996 in the rank of JWO Group-II (Group Y) lastly held by the applicant as per the letter of Government of India, Ministry of Defence, dated 9.2.2001. The said benefit

is given to the applicant by virtue of the letters of the Government dated 7.6.1999 and 9.2.2001. The respondents ought to have acted upon the intention of the letters and the revised pension should be paid to the applicant with effect from 1.1.1996. But it was not revised accordingly by the respondents. Therefore, the arrears of revised pension payable to the applicant as directed by us with effect from 1.1.1996 shall be paid by the respondents with a simple interest at 6% per annum on the arrears from 9.2.2001 till the date of payment. Similarly, the benefit of revised pension payable to the applicant with effect from 1.1.2006 was given by virtue of the Government letter dated 11.11.2008. But the said benefit was not consequently implemented by the respondents. Therefore, the applicant is entitled to a simple interest at 6% p.a. on the arrears of the difference in revised pension payable to him with effect from 1.1.2006, and from 11.11.2008 till the date of payment. Accordingly, this point is also decided in favour of the applicant.

20. **Point No.4:** For the discussion held above and the decisions reached thereon in the previous points, we are of the considered view that the applicant is entitled for the revised pension in the rank of JWO Group-II (Group Y) with effect from 1.1.1996 as per the Government of India MoD letters dated 7.6.1999 and 9.2.2001, and also entitled to a revised pension with effect from 1.1.2006 as per the GOI MoD letter dated 11.11.2008, and

the arrears of pension shall be paid by the respondents with simple interest at 6% per annum with effect from 9.2.2001 and 11.11.2008 respectively till the date of payment as indicated above. The said arrears of revised pensions on both instances shall be paid with interest within a period of three months and the Pension Payment Order shall also be amended and issued within the said time. In default to comply, the respondents shall pay interest at 12% p.a. on the outstanding amount payable to the applicant from this date onwards.

21. In fine, the application is allowed as indicated above. No order as to costs.

Sd/-  
LT GEN ANAND MOHAN VERMA  
MEMBER (ADMINISTRATIVE)

Sd/-  
JUSTICE V. PERIYA KARUPPIAH  
MEMBER (JUDICIAL)

**16.01.2014**  
(True Copy)

**Member (J)** – Index : Yes / No

Internet : Yes / No

**Member (A)** – Index : Yes / No

Internet : Yes / No



To,

1. The Secretary to Government,  
Ministry of Defence, South Block,  
New Delhi 110011.
2. Chief of the Air Staff,  
Air Headquarters (Vayu Bhawan)  
Rafi Marg, New Delhi-110011.
3. The Air Officer Commanding  
Air Force Record Office  
Subroto Park, New Delhi-110 010.
4. The Principal Controller of Defence Accounts (Pensions),  
Office of PCDA (P), Draupadighat,  
Allahabad, U.P -211014.
5. The Accounts Officer  
Office of the D.P.D.O.  
Mudfort, Secunderabad  
Andhra Pradesh-500 003.
6. M/s. V.K. Sathyanathan &  
S. Ranganathan,  
Counsel for applicant.
7. Mr. B. Shanthakumar, SPC  
For respondents.
8. OIC, Legal Cell,  
Air Force, Avadi,  
Chennai.
9. Library, AFT, Chennai.

**HON'BLE MR.JUSTICE V. PERIYA KARUPPIAH  
MEMBER (JUDICIAL)  
AND  
HON'BLE LT GEN ANAND MOHAN VERMA  
MEMBER (ADMINISTRATIVE)**

O.A.No.142 of 2013

Dt: 16.01.2014