

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

2.

OA 331/2024

Hav (DSC) Durga Prasad Limbu (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr. Sundeeep Kumar, Advocate
Maj A.R. Subramaniam, OIC Legal Cell

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HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT. GEN P.M. HARIZ, MEMBER (A)

ORDER
16.02.2024

Though vide proceedings dated 08.02.2024, it had been observed to the effect:-

"The applicant vide the present OA makes the following prayers:-

(8) This Hon'ble Tribunal may be pleased issue directions to the respondents to grant condonation of 310 days or more/LESS notional service (ANY NUMBER OR DEAY) of less than one years, so as to earn 2nd Service Pension for the DSC service in the light of squarely covered judgment of larger Bench of this Hon'ble AFT as referred in Annexure- A4, with 8% interest on the arrears; and/or pass orders/directions in the attendant genuine circumstances of the case, to meet the ends of justice."

Though on behalf of the respondents, the prayer made by the applicant to the extent that the applicant seeks the condonation of shortfall of 310 days delay for the grant of the Second Service Pension to the applicant, ipso facto is not opposed in view of it being

settled vide a catena of orders of this Tribunal in relation to which inter alia reliance is placed on behalf of the applicant on the order dated 18.12.2023 in OA 3964/2024 in the case of Nk/DSC Radha Kanta Jana (Retd.) Vs Union of India & Ors., on behalf of the respondents, it is submitted to the effect that the present OA has been filed with much delay after a period of 10 years and that the arrears of the grant of the pension be thus confined to commence to run from a period of three years prior to the institution of the present OA instituted on 02.01.2024 which the learned counsel for the applicant refutes and submits to the effect that in the instant case the arrears of the pension would have to be paid with effect from the date of discharge and seeks to assist by submitting rulings in relation thereto.

Re-list the matter on 16.02.2024. (Colly)”

2. It has been submitted now on behalf of the respondents that in a similar matter disposed of vide order dated 03.01.2023 in OA 3027/2022 by this Tribunal whereby, the condonation of shortfall of 76 days to complete 15 years of service to become eligible for the Second Service Pension in the DSC had been granted. The operation of the said order dated 03.01.2023 in OA 3027/2023 has been stayed by the Hon'ble High Court of Delhi in vide order dated 14.02.2024 in Writ Petition (C) 2126/ 2024 with observations therein to the effect:-

“Mr. Garg submits that the issue which falls for consideration in this petition is pending consideration before the Supreme Court in Union of India vs. Balakrishna Mullikote, Civil Appeal Diary No. 27246/2023, which is an appeal filed against the judgment of Armed Forces Tribunal, Regional Bench, Kochi.

Noting the above submission made by Mr. Garg, issue notice to the respondents, returnable before Registrar for completion of service and pleading on May 6, 2024.

There shall be a stay of the impugned order dated January 3, 2023 in O.A. 3027/2022 till the next date of hearing.” ,

with the matter being fixed for the date 06.05.2024. In the circumstances the matter be re-notified on 05.08.2024

3. The updated orders in proceedings in Writ Petition (C) 2126/ 2024 as well as the status of the updated proceedings in *Union of India Vs. BalaKrishna Mullikote* in Civil Appeal Diary No. 27246/2023, before the Hon’ble Supreme Court be submitted by the respondents on the next date of hearing. The copy of the order of the AFT Regional Bench, Kochi mentioned in proceedings dated 14.02.2024 in Writ Petition (c) 2126/2024 be also placed on record by the respondents.

The copy of this order be given *DASTI* to the respondents for compliance.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT. GEN P.M. HARIZ)
MEMBER (A)

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