

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

16.

OA 3651/2024 with MA 3918/2024

Ex JWO Netra Pal Singh Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Ms. Tanya, proxy for
Mr. Ajit Kakkar, Advocate
For Respondents : Mr. F.M. Khan, Advocate
Sgt Pankaj Sharma, DAV

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
13.09.2024

MA 3918/2024

Along with the OA is MA 3918/2024 filed on behalf of the applicant seeking condonation of 8201 days delay in filing the present OA for reasons mentioned therein. In the interest of justice, in view of the judgments of the Hon'ble Supreme Court in the matter of *UOI & Ors Vs Tarsem Singh* 2009(1) AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 3918/2024 is allowed and the delay of 8201 days in filing the OA is thus condoned. The MA is disposed of accordingly.

OA 3651/2024

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

“(a) To direct the Respondents to revise the pension of the applicant on the basis of the last rank held by him i.e. Junior Warrant Officer (JWO) w.e.f. 01.03.2002, date of discharge (28.02.2002).

(b) To direct the respondents to pay 12% interest on the arrears of pension as per the judgments passed by this Hon’ble Tribunal.

(c) To issue a Corrigendum PPO in respect of the Applicant reflecting the rank last held and the pension be revised accordingly.

(d) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”

2. Notice thereof is issued to the respondents and accepted on their behalf. The prayers made by the applicant seek revision of the pension of the applicant on the basis of last rank held by him as Junior Warrant Officer w.e.f. 01.03.2002 with date of discharge being 28.02.2002 with *inter alia* a prayer seeking grant of issuance of the corrigendum PPO reflecting the last rank held by the applicant with revision of the pension, to that effect reliance has been placed on behalf of the applicant on the order of this Tribunal in O.A. 1038/2017 titled *Ex MWO Krishnamoorthy vs UoI*.

3. It is essential to observe that in view of the order dated 13.02.2015 in OA 62/2014 of the Regional Bench AFT Chennai in the case of *JWO P Gopalakrishnan Vs. UoI & Ors.* a similar prayer made by the applicant has been granted and vide order dated 23.07.2024 in Writ Petition (C) No. 6815/2024 of

the Hon'ble Division Bench of High Court of Delhi, it has been observed vide paragraphs 2-5 thereof to the effect:-

“2. The petitioners’ challenge to the impugned order is premised on two grounds. The first being that the directions to the petitioners to grant pension of the rank of Havaldar to the respondent, even though he had not completed 10 months of service as a Havaldar at the time of his superannuation is erroneous. The second ground being that the Tribunal, has without appreciating the fact that the O.A. was filed in the year 2022 wrongly directed that arrears of revised pension be paid to the respondent w.e.f. 01.01.2001.

3. Insofar as the first plea of the petitioners is concerned, we find that the learned Tribunal has relied on the decision of its Regional Bench at Chennai in O.A. 62/2014 titled JWO Gopalakrishnan v. UOI & Ors. Having perused the said decision, which was unsuccessfully assailed before the Apex Court, we find no merit in this plea of the petitioners. However, we are prima facie inclined to accept the petitioners’ second plea that arrears of revised pension could not have been directed to be paid to the respondent w.e.f. 01.01.2001 and the same should have been restricted to a period of 3 years to the date of filing of the O.A.

4. Accordingly, issue notice confined to the question of the date from which the respondent would be entitled to receive arrears of revised pension. Learned counsel for the respondent accepts notice. Counter affidavit, if any, be filed within six weeks. Rejoinder thereto, if any, be filed within four weeks thereafter.

5. Till the next date, the operation of the impugned order, insofar as it directs payment of arrears of revised pension to the respondent w.e.f. 01.01.2001 will remain stayed. This would, however, not come in the way of the respondent's entitlement to receive pension of a Havaldar with prospective effect."

4. In the circumstances, the respondents whilst accepting notice of the present OA submit that the prayer made by the applicant seeking the revision of the pension of the applicant on the basis of last rank held by him as Junior Warrant Officer may be allowed, subject to verification, with a further submission made on behalf of the respondents that presently, in terms of the order dated 23.07.2024 in Writ Petition (C) 6815/2024 of the Hon'ble High Court of Delhi, the grant of the arrears of the revised pension on the basis of last rank held by the applicant be confined to commence to run from a period of three years prior to the institution of the OA instituted on 13.08.2024.

5. In view, thereof, the prayer made by the applicant seeking the revision of the pension of the applicant on the last rank held by him as Junior Warrant Officer with effect from the date of discharge is allowed subject to verification of the service details of the applicant by the respondents *qua* the date of discharge and last rank held by him. However, in view of the order of the Hon'ble High Court of Delhi dated 23.07.2024 in Writ Petition (C) 6815/2024, the arrears of the grant of the pension on the basis of the last rank held by the applicant are directed to be

confined to commence to run from a period of three years prior to the date of institution of the OA i.e. 13.08.2024. The corrigendum PPO be issued accordingly.

6. It would be open to the applicant to seek redressal, if any, in the event of there being any variation of the order dated 23.07.2024 in Writ Petition(C) 6815/2024 before the Hon'ble High Court in relation to the period *qua* which the arrears of the grant of the revised pension on the basis of the last rank held by any such applicant may be granted from the date of discharge.

7. The OA is disposed of accordingly.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

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