

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

9.

OA 859/2025 with MA 1272/2025

Cpl M Hari Prasad (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Devendra Kumar, proxy for
Mr. V C Shukla &
Mr.Raj Kumar, Advocates
For Respondents : Ms. Garima Sachdeva, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
28.03.2025

MA 1272/2025

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 6041 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of UoI & Ors Vs Tarsem Singh (2008) 8 SCC 648 and in Ex Sep Chain Singh Vs Union of India & Ors in Civil Appeal 22965/2017 arising out of Civil Appeal Diary no 30073/2017 and the reasons mentioned, the MA 1272/2025 is allowed despite opposition on behalf of the respondents and the delay of 6041 days in filing the OA 859/2025 is thus condoned. The MA 1272/2025 is disposed of accordingly.

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

- “(i) Direct the respondents to grant pro-rata pension to the applicant.
(ii) Issue an order/direction to the respondents to pay arrears of pro rata pension from the date of discharge of the applicant till date along with such interest as payable;
(iii) Pass any other order or direction that the Hon’ble Tribunal deems fit, just and proper in the light of the circumstances of the case.”*

2. Counsel present on behalf of the arguing counsel submits that he is under instructions to argue. Notice of the OA is issued and accepted on behalf of the respondents. A bare perusal of the OA indicates to the effect that the submissions made in the OA are to the effect that the applicant had been enrolled in the Indian Air Force on 16.12.1999 and discharged from service on 13.01.2008(A/N) after completion of 08 years and 29 days of service with 02 years re-service liability i.e. total service including reserve of 10 years and 29 days. The applicant further submits that after leaving service, he got re-employed in a civil job and thus submits that he is entitled to the grant of pro-rata pension in view of the verdict of the Hon’ble High Court of Delhi in WP(C) 10026/2016 titled *Govind Kumar Srivastava vs. UOI & Ors.* as held vide judgment dated 09.01.2019. Reliance is also placed on catena of other verdicts by the applicant, *inter alia* on the orders of the Hon’ble High Court of Delhi dated 20.11.2022 in CW 7145/2002 in *Ex Sgt NK Bose vs. UOI & Ors.* The verdicts of the Hon’ble High Court in *Govind Kumar Srivastava vs. UOI & Ors.* and in *Ex Sgt NK Bose vs. UOI & Ors* , as well as the other judgments relied upon in Para-3 of the Annexure A-1 to the OA all

relate to the circumstances where personnel of the Armed Forces, whilst in the Armed Forces sought the issuance of the No Objection Certificate (NOC) to join the public sector and were granted the said No Objection Certificate (NOC) certificates and as a consequence thereof, were held entitled to the grant of pro-rata pension. The facts of the instant case as averred in the OA are not in *pari materia* with the facts of the cases relied upon on behalf of the applicant.

3. In the circumstances, OA 859/2025 is dismissed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

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