

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH
AT NEW DELHI**

TA No.197/09

[WP(C) No.933/97 of Delhi High Court]

And

TA No.112/09

[WP(C) No.9470/07 of Delhi High Court]

Capt. Gurdeep Singh etc.

.....Petitioners

Versus

Union of India & Ors.

.....Respondents

For petitioner

In TA no.197/09 : Col.K. Digamber Singh (Retd.) Advocate

In TA 112/09 : Col.S.R. Kalkal(Retd.), Advocate.

For respondents : Mr.Mohan Kumar, Advocate.

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON
HON'BLE LT. GEN. M.L. NAIDU, MEMBER**

**ORDER
19.11.2009**

1 Both petitions i.e. T.A. no. 197/2009 and T.A. No. 112/2009 involve identical question of law, hence same are disposed of by this common order.

2. For convenient disposal of matters the facts of TA No.197/2009 are taken into consideration. Petitioner in TA no.197/2009 has prayed that writ of mandamus be issued for quashing the order of respondent no.1 dated 03.12.1996 and to direct the respondents to sanction pension of the rank of Captain after taking into pre-commission service rendered by him.

3. Brief facts relevant for disposal of petition are that petitioner was enrolled in the Army as Sepoy on 07.07.1948 and he was granted Emergency Commission in the rank of Second Lieutenant with effect from 09.02.1964. He was further promoted to the rank of Lieutenant on 09.02.1966 and granted acting rank of Captain with effect from 16.11.1967. Petitioner had filed Civil Writ Petition before Hon'ble Delhi High Court bearing no.1199 of 96 and Hon'ble Delhi High Court vide its order directed the appropriate authority to consider the representation of petitioner and to take a decision within six months. Authorities after taking into consideration the representation filed by petitioner disposed the same vide order dated 26.03.1996 and authorities declined to take into consideration full pre commission service of petitioner for the

purposes of pension. Aggrieved by this order, present writ petition has been filed before Hon'ble Delhi High Court which after constitution of Armed Forces Tribunal has been transferred to this Bench for disposal.

4. Though the respondents filed detailed reply and contested the matter, however in view of changed circumstances now whole scenario has been changed with the 6th Pay Commission coming into force and Government has now issued order dated 20.05.2009 whereby it has been clearly mentioned that *"Full pre-commissioned rank service for working out the qualifying service for determining the revised pension subject to fulfilment of other conditions"*. Therefore, now according this order the entire pre-commissioned service will be taken into consideration for qualifying the service. Our attention is also invited to circular dated 03.09.2009 whereby a table attached with it showing how years of service and amount of pension is to be worked out. Both these two circulars/orders have been placed on record and they have been taken on record. Therefore, respondents are directed to re-determine the pension of the petitioner in the light of circulars/

orders dated 20.05.2009 and 03.09.2009. This whole exercise should be completed within 3 month from today. Both petitions are accordingly disposed of with no order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
November 19, 2009