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

TA NO.210/2009

WP(C) NO.2592/93 of Delhi High Court

1. Gp. Capt. R. Kumar
2. Gp. Capt. M.L. Chibb
3. Gp. Capt. A.K. Ghosh
4. Wg. Cdr. J.K. Vatal

.....Petitioners

Versus

Union of India & Ors.

.....Respondents

CORAM:

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

For petitioner : None

For respondents : Sq. Ldr. Ashish Tripathi

ORDER

1. Sq. Ldr. Ashish Tripathi appears on behalf of respondents and submits that petitioners have been informed but neither petitioners appeared in person nor their learned counsel.
2. Petitioners by this petition have prayed that respondents no.2 and 3 be directed to pay the salary of petitioners from 01.11.1982 and stay recovery of alleged double credit of rank pay.

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3. Brief facts necessary for disposal of present petition are that petitioners are all officers of the Indian Air Force and they served for more than decades and retired during various period of time. The petitioner no.1 retired as Group Captain on 03.12.1988, after retirement he rejoined service as a Squadron Leader on 09.01.1989 and terms of re-employment were relatively extended. The petitioner no.2 joined service and he retired in the rank of Group Captain. He was re-employed in the rank of Squadron Leader and period has been subsequently extended. The petitioner no.3 joined service and retired as a Group Captain. He was re-employed in the rank of Squadron Leader. The petitioner no.4 joined service and after service about 20 years he retired in the rank of a Wing Commander and was later on re-employed in the rank of Flight Lieutenant. The petitioners were on re-employment re-fixed and their salaries were worked out. Only mistake that was occurred with regard to double credit of payment of rank pay which sought to be recovered from them. This was challenged by the petitioners by this writ petition.

4. Respondents in their reply have pointed out that initial pay of all petitioners on re-employment before 01.01.1986 was fixed and they continued in re-employment after 01.01.1986 and their pay was fixed as per provisions obtaining at relevant time. They were re-fixed

according to the Rules bearing on the subject i.e. minimum pay shown for each rank on integrated scale. They were all re-fixed in accordance with circular bearing on the subject. But unfortunately they were paid rank pay twice over which sought to be recovered from them.

5. So far as mistake in calculating the rank pay twice is concerned, it is a bonafide error and Authorities are well within their right to recover the rank pay paid to the petitioners twice. Therefore, Authorities may recover the rank pay paid twice and remaining salary, should be paid to petitioners within a period of 2 months from today, if not paid so far.

6. Petition is disposed of with aforesaid observations. No costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

November 09, 2009