

**COURT NO. 3, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

12

T.A. No. 216 OF 2009

WP(C) No. 3249 OF 1992 of Delhi High Court

IN THE MATTER OF :

Sg. Ldr. Anil Kumar Kaistha

.....Applicant

VERSUS

Union of India & Others

.....Respondents

Dated: 04-12-2009

Present: None for the Applicant.

Sqn. Leader Ashish Tripathi on behalf of the Respondents.

Perused the record.

Notice issued to the Applicant on previous date received back unserved with the endorsement that "no such person resides in the given address". However, notice issued to the counsel for the Applicant not received back.

Contd...2/-

This petition was filed in the year 1992 before the Hon'ble Delhi High Court with the prayer that Petitioner be awarded substantive rank of Wing Commander since 11-07-1999. It is pointed out by the learned officer appearing on behalf of the Respondents that the Applicant was granted acting rank of Wing Commander since 11-09-1995 and thereafter since 01-02-1996 Applicant was given substantive rank. He also drew our attention towards A5 Clause 12 and submitted that substantive rank cannot be granted in any case prior to grant of acting rank. He further submits that in the present case the Applicant has been given substantive rank in the subsequent events, therefore, the cause of action does not survive.

Considering the facts of the case as none appeared on behalf of the Applicant despite notice and no fresh address is available on record and further considering the subsequent facts stated by the learned officer as above, no fruitful purpose shall be served in keeping this application pending. Hence, present application is dismissed for non-prosecution.

MANAK MOHTA,
(Judicial Member)

Z.U. SHAH,
(Administrative Member)

Dated: 04-12-2009