

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

TA No.401/09

[W.P. (Civil) No.2589/1998 of Delhi High Court]

Ex. Hav. Karan Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Col. (Retd.) K. Digamber, Advocate

For respondents: Col. (Retd.) R. Balasubramaniam, Advocate

CORAM:

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

**ORDER
01.12.2009**

1 Petitioner by this writ petition has prayed that writ of mandamus be issued directing the respondents to release the pay of petitioner for the period from October, 1970 to November, 1973. He further prayed that respondents may be directed to release the provident fund due to the petitioner for which he has subscribed on monthly basis and his IRLA be produced before this Court and PAO (OR) Authorities concerned be directed to remit the due, to the petitioner.

2 The petitioner was enrolled in Indian Army as a Sepoy on 06.12.1955 and during his tenure he was dismissed from service on 13.11.1973 by Court Martial and he was punished with 3 years imprisonment and dismissal from service. The petitioner was earlier also punished for some disciplinary action and punished three months but that was reduced and he was taken back in service. However, since he was dismissed from service by Court Martial on committing some theft in store room, therefore, he is not entitled to pension or other pensionary benefits because of dismissal from service. However, so far as to the extent of provident fund amount is concerned which was contributed by the petitioner, that he is entitled to be refunded back with interest. Learned counsel for petitioner confined his grievance only to this extent that amount of provident fund which has been deducted from 1955 to 1973 i.e. 18 years has not been properly calculated and amount has not been remitted properly, therefore, his grievance is that respondents may be directed to release provident amount of the petitioner which is due to him.

3 A reply was filed by the respondents and respondents have taken the ground that entire amount of provident fund was already released to the petitioner and a sum of Rs.3901/- was

remitted to him by the Field Service Money Order dated 19.03.1978. Therefore, nothing more remains to be paid.

4 We have heard learned counsels for parties and perused the record.

5 The petitioner has given sheets showing that the amount of provident fund was deducted from his salary from time to time and his grievance is that total amount due to petitioner towards his gratuity to the extent of Rs.35,380/- and thereafter he has also calculated the interest on that amount till 1998 which was worked out to be Rs.20,30,747.10. Whether this amount is due to the petitioner or not, we cannot say at this stage.

6 As per the respondents' reply whatever the amount of provident fund was due, has been released to the petitioner. It is also submitted that all other record has already been destroyed. However, so far as the Individual Running Ledger Account is concerned that has not been destroyed. We have given to understand that it is maintained being a financial document. The petitioner has given his statements which he received on deduction

of provident fund from time to time. According to learned counsel for the petitioner this amount calculated by him is as per the sheets available with him and against that he was paid only Rs. 3901/-. That amount was only short of actual amount which is due to petitioner towards provident fund amount. However, looking into the facts of this case we direct that Individual Running Ledger Account may be reconciled with whatever credit receipts of provident fund are available with the petitioner. Petitioner shall send copies of quarterly statements to the authorities for the purpose of reconciliation of his account within a month from today so that authorities can check with the Individual Running Ledger Account whether the amount which has been deposited by him duly credited in his account and same has been paid to him with interest or not. In case reconciliation of these documents i.e. register and the sheets sent by the petitioner, if amount is due to petitioner that shall be worked out and same be released within three months from today with 12% interest. Petitioner is disposed of with aforesaid directions. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
December 1, 2009