

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

O.A. No. 102/2010

Ex Nk Satbir Singh

.....Applicant

Versus

Union of India & Others

.....Respondents

For applicant : Sh. R.S. Kalkal, Advocate for Sh.S.M. Hooda,
Advocate.

For respondents: Ms.Rashmi Singh, Advocate for Sh.Mohan
Kumar, Advocate with Maj Ajeen Kumar

CORAM:

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

**ORDER
03.05.2010**

1. Applicant by the present original application has prayed to direct the respondents to pay him the service pension with effect from 18.04.1996 along with arrears and interest thereon.

2. Applicant was enrolled in the Indian Army as Combatant Soldier on 18.12.1979. While he was on annual leave with effect from 23.03.1990 till 12.05.1990, although he was out of his village on 23.03.1990 on the day of occurrence of family feud occurred between his uncle and family members and in the ensuing fight his uncle's son died. While on leave, he was arrested by the Police and kept in Police custody and later in Judicial Custody till he was granted bail from Hon'ble Punjab & Haryana High Court on 17.09.1990. He was granted casual leave with effect from 02.08.1992 till 11.08.1992 but he absented and reported back on 09.09.1992. He reported back to his unit after being granted bail and he was attached with Military unit at Hisar till finalization of case by his unit. Case in which he was charged u/s. 302, 148, 145, 325 and 506 of the Indian Penal Code, he was convicted by the Session Court for life imprisonment on 27.04.1993, however, on appeal before the Hon'ble Punjab and Haryana High Court his life sentence reduced to 7 years on 20.07.1995. He was discharged from service with effect from 17.04.1996. After completing the sentence, he requested the respondents to release his service pension. Applicant alleged that if his entire service taken into consideration, he had put in 16

years, 4 months and 13 days service and the minimum qualifying service for service pension in case of JCO is 15 years, therefore, he filed a claim for service pension but it was rejected as the out of total service put in by him, his period of absence is deducted then he will not have the minimum qualifying service period for pension. He filed a petition before the Hon'ble Delhi High Court bearing no. WP(C) No.1328/02 and Hon'ble Delhi High Court after considering the matter found that petitioner had put in 14 years and 98 days and he was short by less than one year, therefore, Hon'ble Delhi High Court remit back the matter for reconsideration vide order dated 11.12.2008. After decision of Hon'ble Delhi High Court, the matter was reconsidered by the Government and Government passed a detailed speaking order on 12.03.2009 wherein it is pointed out that *in accordance with Regulation 132 of Pension Regulations for the Army 1961 (Part-I) he was not granted any pension*. It is also pointed out that *he was discharged from service in terms of Para 423 of Army Regulation, 1987 edition read with Para 13 (3) item III (v) of the Army Rule, 1954 being an undesirable soldier*. Aggrieved by non-granting of service pension, he approached this Tribunal.

3. We have gone through the record and found that for grant of service pension good conduct is implied condition. When incumbent found guilty of a charge of murder though life sentence reduced to 7 years by the Hon'ble Punjab and Haryana High Court but it is a highly immoral conduct and Authorities are well within their rights to deny the benefit of service pension to such a person.

4. Consequently, we do not find any merit in the petition. Same is dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
May 03, 2010.