

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

O.A. No. 163/2010

Maj. Laiq Ram DograApplicant

Versus

Union of India & AnotherRespondents

For applicant: Lt. Col. (Retd.) Naresh Ghai, Advocate.

For respondents: Sh. Ankur Chibber, Advocate.

CORAM:

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

**ORDER
13.08.2010**

1. The applicant in present petition has prayed for release of military pension as retired officer of the Territorial Army from 30.06.2003 by counting his civil service with interest @ 12% p.a.

2. Applicant was selected through Service Selection Board and was commissioned as a Territorial Army Officer on 30.05.1985 as a Second Lieutenant since Territorial Army is part and parcel of the Army. After joining as Second Lieutenant became Captain and subsequently Major after undergoing

necessary courses and professional examinations. He had put in 12 years qualifying service military service and was superannuated on attaining the age of 54 years from 126, TA, JAK Rifles. He requested for grant of military pension. It is submitted that the applicant prior to joining as Second Lieutenant in Territorial Army was working in the civil department in the office of Accountant General (Audit) and had joined Territorial Army and he had put in 13 years of service in this Department. He made representation to the Authorities from time to time for grant of Army Pension and counting his previous service in the civil department. However, this did not yield any result. However, meanwhile office of Accountant General (Audit) took the matter for pension and released the pension to the applicant on 18.01.2005 by issuing the PPO. Applicant was agitating for grant of military pension taking into consideration his civil service put in by him in the Accountant General Office but that was not acceded to and ultimately the civil department i.e. Accountant General (Audit) released his pension.

3. It appears that subsequently the matter seems to have received attention of the respondents Union of India and Union of India by their communication dated 23rd May, 2008 decided that the Territorial Army Officer will also be entitled to count their former civil disembodied service in Central Government and in Territorial Army service towards qualifying service for pension in the Territorial Army. However, the incumbent was asked to exercise his option within one year but this letter seems to have been lost administrative jungle and applicant was unaware of it. Therefore, he could not exercise this option and by that time he also retired from service. Therefore, he could not acquire knowledge to exercise such option nor Territorial Army asked for any option from the applicant. Applicant gave notice to the Government through his counsel that he wants to opt for the pension from Army on 15.02.2010. Thereafter, he filed the present application before this Tribunal and in that connection petitioner heavily relied on the decision given by this Bench in the case of Maj. S.D. Singh vs. Union of India (T.A. No. 46/2010) on 18.01.2010.

4. Notices were issued to the respondents but no reply was filed by the respondents. From these facts what transpires is that though applicant has already released pension from civil department but since he has put in embodied service in Territorial Army from 30th May, 1985 till 31st May, 2003 when he superannuated, that means he has put in qualifying service of 12 years in Territorial Army. Therefore, he has filed this petition praying that he may be released pension from the Army and he is not keen to retain the pension from the civil department which was released to him somewhere in January, 2005. He submits that he has been requesting from time to time for Army pension but it was not released to him.

5. We have heard learned counsels for the parties and we find that in fact change of policy somewhere came in May, 2008 and the applicant had was unaware, therefore, he could not exercise the option nor such option was asked from him. But all the time he was claiming military pension meanwhile the civil department in January, 2005 released his pension. Be that, as it may, applicant's grievance is instead of granting of civil pension, he wishes to opt for the military pension. Since applicant was

protesting all through and the new policy was brought about on 23rd May, 2008 and applicant wants to opt for the Military pension by counting his civil service, case of applicant may be considered sympathetically in the light of policy letter dated 23rd May, 2008 and order passed by this Tribunal in the case of Maj. S.D. Singh vs. Union of India (T.A. No. 46/2010). This should be done as far as possible within a period of four months. Petition is disposed of. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. Naidu
(Member)

New Delhi
August 13, 2010.