

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

O.A. No. 176/2010

Ex. Hav. (CLK) Ram SinghApplicant

Versus

Union of India & OthersRespondents

For applicant: Sh. M.K. Gaur with Sh. D.S. Yadav, Advocates.

For respondents: Ms. Jagrati Singh, Advocate, proxy counsel for
Sh. A.K. Bhardwaj, Advocate.

CORAM:

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

**ORDER
26.08.2010**

1. Applicant in the present case was enrolled on 30.01.1967 in the Indian Army and he stood discharged from the service on 31.01.1989 after completing 22 years of service. Thereafter, he was re-enrolled in DSC on 03.08.1989 and discharged on 30.06.2004. He opted for the DSC pension but DSC pension could not be granted to him as he was short of 32 days because he had only put in 14 years and 333 days of

service. Therefore, on account of shortage of 32 days, his request for grant of DSC pension was rejected.

2. Although applicant had filed a writ petition before Hon'ble Delhi High Court and Hon'ble High Court disposed of the petition with a direction to the Government to reconsider the matter. The Government after reconsideration of the matter passed the order on 16.12.2009 holding that the incumbent is short by 32 days, therefore, he is not entitled to DSC pension.

3. We fail to understand despite the number of orders of the Government bearing on the subject whereby the Authorities have been given discretion to condone the delay in the matter of qualifying service upto one year. In the present case also, incumbent is short by 32 days and the Government by order dated 14th August, 2001 have conferred power to service headquarters to condone delay from six months to twelve months. We fail to understand why the delay of 32 days was not condoned by the Authorities. In an identical matter, this Tribunal on 18th January, 2010 directed the respondents to condone the day of 59 days and grant the pension to the incumbent [T.A. No. 377/2009 – Hoshiar

Singh vs. Union of India & Others]. This is the identical case in which applicant is short by 32 days only, therefore, on the parity of reasoning given in the aforesaid order, we allow this application and direct the respondents to condone the delay of 32 days and grant DSC pension to the applicant within three months from today. Applicant will be entitled to arrears of pension three years preceding from the date of filing of this application. Arrears shall carry interest @ 12% p.a. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
August 26, 2010.