

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT  
NEW DELHI

O.A. No. 263/2010

Mrs. Sunita

.....Applicant

Versus

Union of India &amp; Others

.....Respondents

For applicant : Lt. Col. Naresh Ghai, Advocate.

For respondents: Sh.Ankur Chibber, Advocate with Capt  
Alifa Akbar.**CORAM:**

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

**ORDER**  
**26.05.2010**

1. Applicant by this petition has prayed that orders dated 28.11.2000 and 14.07.1999 denying pension from the date of retirement of his husband and family pension due to her from 18.05.2001, may be quashed and respondents may be directed to release the pension and pay the arrears alongwith interest.

2. The husband of applicant Major Ram Pal Chauhan served in Jammu and Kashmir operation as Rifleman in 4<sup>th</sup> Gorkha Rifles of the regular Army from 23.06.1947 to 06.02.1956



(8 years, 7 months and 4 days). Thereafter, on selection by SSB, based on his past record, he was commissioned on 04.03.1964 as 2<sup>nd</sup> Lieutenant in the Territorial Army which is a part and parcel of the Army and on promotion to Lieutenant, Captain and Major on passing of compulsory courses/professional exams while having 12 years and 148 days of service superannuated on 28.02.1979 but he was denied pension on the plea that his total qualifying service including 2/3<sup>rd</sup> of PBOR service comes to be about 18 years which is less than the minimum required period of 20 years.

3. Learned counsel for the applicant submitted that entire period of PBOR service is required to be counted as per para 5 (4) of the circular dated 30.10.1987 which says that *full pre-commissioned service rendered under the Central Government whether in a Civil Department or in the Armed Forces, shall be taken into account for working out the qualifying service for earning pensionary benefits subject to fulfilment of other conditions.* Learned counsel for applicant further submitted that similar case came up before this Bench and this Bench has already held that entire service is required to be counted for qualifying service in case of 'Major S.D. Singh versus Union of India' bearing TA no.46/2010 decided on 19.02.2010.



4. In the light of aforesaid provision of law and decision given by this Bench in the case of 'Major S.D. Singh', the petition is allowed. Respondents are directed to count the entire service of PBOR of deceased incumbent which makes 21 years as such deceased incumbent has full qualifying service. Therefore, after taking into consideration the full period of qualifying service of the deceased incumbent, all the pensionary benefits and the arrears of deceased incumbent should be worked out and be paid to the applicant. The applicant shall be given family pension as per Rules bearing on the subject. The arrears carry the interest @12% per annum. This whole exercise should be done within 3 months from today.

5. The petition is allowed with no order as to costs.

**A.K. MATHUR**  
(Chairperson)

**M.L. NAIDU**  
(Member)

New Delhi  
May 26, 2010.