

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

T.A. No. 296/2010

[WP(C) No.2538/02 of Delhi High Court]

Sgt (Fit Arm Gp-I) Dalbir SinghPetitioner

Versus

Union of India & Ors.Respondents

For petitioner: Col K. Digamber Singh, Advocate.

For respondents: Flt Lt Vishal Chopra with Sgt R.P. Gupta

CORAM:

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

**ORDER
16.03.2010**

1. The present petition has been transferred from Hon'ble Delhi High Court to this Tribunal on its formation.

2. Petitioner by this writ petition has prayed that a writ of Mandamus or any other appropriate writ may be issued directing the respondents to pay the revised pension to him as laid down in

Government of India, Ministry of Defence letter dated 07.06.1999 which stipulates 50% of the minimum pay of the revised scale of pay introduced with effect from 01.01.1996 of the rank and group in case of (PBOR) held by the pensioners, along with interest.

3. Brief facts which are relevant for the disposal of present writ petition are that petitioner is an Ex-Air Force Sergeant. He was enrolled in the Air Force on 15.06.1951 and served till 25.08.1967. He was served for a period of 16 years, 2 months and 10 days. Thus he is entitled to have weightage of 5 years towards pensionary benefits as directed by the Government of India, Ministry of Defence letter dated 07.06.1999. As per this order, the new revised pay scales of Sergeant Group A is Rs.5000-100-6500, therefore, petitioner is entitled to get 50% of the minimum of Rs.5000/- i.e Rs.2500/- per month whereas respondents have fixed his pension @ Rs.1,816/- per month with effect from 01.01.1996 vide PPO dated 06.08.2001. Aggrieved by this, he approached the Hon'ble Delhi High Court by filing present writ petition with aforesaid reliefs and the case was transferred to this Tribunal on its formation.

4. A reply was filed by the respondents and they contested the matter.

5. Respondents have invited our attention to the Circular dated 01.02.2006 whereby the Group of Ministers unanimously recommended that the pension of pre 01.01.1996 retiree PBOR may be revised with reference to the maximum of post 01.01.1996 pay scales. In addition, the weightage of Sepoy, Naik and Havildar ranks for past as well as future retirees be increased to 10, 8 and 6 years respectively subject to a maximum qualifying service of 30 years. Then a further amendment has been made on 07.06.1999 which reads as under:-

“With effect from 01.01.1996, pension of pre-1.1.1996 retirees in all ranks of PBOR in Army, Navy and Air Force for 33 years of qualifying service shall be less than 50% of the maximum pay in the revised scales of pay introduced with effect from 01.01.1996 including 50% of highest classification allowance, if any, of the rank and group held continuously for 10 months preceding retirement subject to a minimum pension of Rs.1913/- per month. Such pension shall be reduced pro-rata where the pensioner has less than the maximum qualifying service for full pension that is 33 years.”

6. It is also pointed out that petitioner has already been given the benefit as per the aforesaid circular that means the

maximum of the pay scale introduced with effect from 01.01.1996 of Sergeant group-I is Rs.5945/- and hence his pension calculation with effect from 01.01.1996 is Rs.5945/- (16 years plus 6 years=22 years) plus half of 33 that means it comes to Rs.1981.66 with dearness pay of Rs.1982/- plus Rs.991/- equal to Rs.2973/-, post 01.01.1996 to pre 10.10.1997 and for post 10.10.1997 pensioner's pension is also to be revised to Rs.2993/- per month with effect from 01.01.2006 as their maximum pay is same i.e. Rs.5945/- as per table no.72 of Circular no.350.

7. Learned counsel for petitioner submitted that as per chart petitioner service should be counted 16 years plus 6 years i.e. 22 years and on that basis petitioner is entitled to pension to the extent of Rs.3784/- but Sgt R.P. Gupta appearing on behalf of respondents invited our attention to clause 6.2 of the notification dated 19.05.2006 wherein it is clearly mentioned that tables indicating revised pension for each rank and group of PBOR with increased weightage and for various lengths of qualifying services have been prepared for Army, Navy and Air Force for Pre-96 PBOR pensioners, Post-96 and Pre-10.10.1997 PBOR pensioners and Post 10.10.1997 PBOR pensioners. It is pointed

out that this calculation includes the weightage also and in case of petitioner who has put in 16 years of service and after adding 6 years of service as per revised weightage, his pension comes to Rs.1982/- and that has been taken into consideration and he has been paid Rs.1981.66 which after rounding of comes to Rs.1982/-.

8. After going through the original record we are satisfied that petitioner's pension has been rightly calculated as per revised Regulation bearing on the subject. Our attention was invited to order dated 20th January, 2009. Authorities may look into that and if any benefit flows therefrom then same be given to petitioner. Petition is disposed of with no order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
March 16, 2010.