

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

TA No. 371/2010

[W.P. (C) No.9356/2004 of Delhi High Court]

Kaptan Singh

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Col.S.R. Kalkal(Retd.), Advocate

For respondents: Sh.Gaurav Liberhan, Advocate with Cdr. Y.S.  
Sarawat and Lt Cdr Varun Singh

**CORAM:**

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

**ORDER  
11.05.2010**

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

2. Petitioner by this petition has prayed that order dated  
07.11.2003 may be quashed and respondents may be directed to

pay him the pay and allowances of 'Y' group with effect from 01.01.1996 alongwith arrears and service pension of 'Y' group with effect from 01.10.2003.

3. Brief facts which are necessary for the disposal of present petition are that petitioner was enrolled in the Indian Navy as Combatant Sailor on 31.08.1985. At the time of enrolment, he possessed civil qualification as high secondary and was enrolled in the category of non-matric Rate (Steward). He passed his E.T.I. test on 18.09.1990 which is pre-requisite for promotion of Petty Officer in Navy and he further qualified higher education test in March, 1995 vide Naval Head Quarters letter dated 26.07.1995. He passed his Bachelor of Arts degree in the year 2001. It is alleged that as per recommendations of 5<sup>th</sup> Central Pay Commission, all the personnel below officer rank were bracketed in total three categories i.e. X, Y and Z. In October, 1988, he completed his ship diver course and subsequently, Air Crew Diver course and was awarded Wing on March, 1992. It is alleged that he had done more than 500 hours of flying in a short span of 2 years and was among very few who attained 'A' degree on the

sinking as well as on Chetak Air Craft. It is alleged that Air Crew Cadre is mostly kept for ten years and his case was taken up with strongly recommendation vide INS Magar letter dated 31.07.2001. The Headquarter Eastern Naval Command Naval Base Visakhapatnam further recommended his case for extension vide letter dated 27.08.2001 but he was not granted further extension in the crew divers beyond 10 years. He was removed from the list of Air Crew Divers on 05.03.2002 due to non-extension of his tenure for another 2 years and he was put back in 'Z' group. Therefore, he approached the Hon'ble Delhi High Court by filing present writ petition which was transferred to this Tribunal after its formation and prayed that order reverting him may be quashed and he may be treated in 'Y' group as he has higher secondary qualification to his credit which is equivalent to matriculation and he is also a graduate. Meanwhile he was retired on 31.08.2003.

4. A reply was filed by the respondents wherein they took the position that at the time of entry, he possessed the higher secondary qualification but he was enrolled as non-matric entry in Steward Branch. It is admitted by the respondents that petitioner

passed E.T.I. test on 18.09.1990 and qualified higher education test vide Naval Head Quarters letter dated 26.07.1950. It is also admitted that petitioner had completed Ships Diver Course in October, 1988 and subsequently, Air Crew Diver course in March, 1992. It is submitted that there is a restriction of maximum of 7 years service in the Air Crew Diver Cadre but it was extended to another 3 years. The petitioner was given further 3 years extension and he was released from service on 31.08.2003. The stand of the respondents is that infact the petitioner might be having the higher qualification but he was enrolled as non-matric entry recruit, therefore, he cannot be granted pensionary benefits of 'Y' group since he had not changed his branch of Group 'Y'.

5. We have heard the learned counsels for parties and perused the record.

6. The Combatants were placed in following three pay groups in the Indian Navy:-

(a) Combatant group 'X' – All trades with diploma/graduation as entry qualification.

(b) Combatant group 'Y' – All trades with matric as entry qualification.

(c) Combatant group 'Z' – All trades with non-matric as entry qualification.

7. These three pay groups have been accepted by the respondents but respondents taken the stand that since petitioner was enrolled in service as non-matric entry though meanwhile he after undergoing certain test became Air Crew Diver where he remained for a period 10 years and after completing 10 years as Air Crew Diver, he was reverted back to Combatant group 'Z' i.e. non-matric as entry qualification.

8. It is true that petitioner enrolled in the Navy as non-matric entry though he was having the higher secondary qualification at the time of entry which is almost equivalent to matriculation but meanwhile after undergoing certain test, he became Air Crew Diver i.e. at higher position and worked for 10 years as Air Crew Diver but on completion of 10 years, he cannot be reverted back to category 'Z' because he has higher secondary qualification and during service, he also acquired graduation qualification. Suddenly, after serving for 10 years in higher grade,

he was sent back to non-matric group, is not fair which is nothing but arbitrary action. At the time of entry in service, he was matriculate/higher secondary. Infact he should have been inducted in service in 'Y' category. Be that as it may, but the fact remains that petitioner was enrolled as non-matric entry but he was having the matriculation qualification (higher secondary) and he acquired graduation qualification and at the fag end of his career, he was pushed down to non-matric category which is arbitrary and violative to Article 14 of Constitution of India. Therefore, we hold that petitioner had requisite qualification of category 'Y' and he should be given all the benefits which are attached to Combatants in 'Y' group looking into his academic qualification.

9. We set aside the order dated 07.11.2003 and directed that the petitioner shall be treated in 'Y' group because he has sufficient academic qualification to his credit and his pensionary benefits alongwith arrears should be worked out in terms of recommendations of 5<sup>th</sup> Central Pay Commission and other

benefits which are due to the petitioner be paid to him in accordance with law.

10. The petition is allowed accordingly with no order as to costs.

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

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

**New Delhi**  
**May 11, 2010.**