

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

T.A. No. 461/2010

[W.P. (C) No. 894/03 of Delhi High Court]

Ex Chief Artf Surender SinghPetitioner

Versus

Union of India & OthersRespondents

For petitioner: Sh.S.M. Hooda, Advocate.

For respondents: Ms.Tinu Bajwa, Advocate with Cdr Y.S.
Sarawat and Sh.Arvind Kumar Malviya from
PCDA(P), Allahabad.

CORAM:

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

**ORDER
20.05.2010**

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 respondents
may be directed to pay him the correct amount of pension in
accordance with Table no. 108 of the order dated 14.07.1998 and

also add the weightage of 5 years for qualifying service for pension and then pay the arrears along with interest thereon.

3. Petitioner was enrolled in the Indian Navy as a boy on 18.02.1954. He was discharged in the rank of Chief Aircraft Artificer on 08.01.1969. His pension was accordingly calculated and same was released to him. Meanwhile, 4th Central Pay Commission came into force and his grievance is that his pension should be calculated in the light of recommendations of 4th Central Pay Commission by giving him weightage of 5 years as contemplated in order dated 30.10.1987 wherein in order to implement the recommendations of 4th Central Pay Commission, the weightage of 5 years was given to all Personal Below Officer Rank (in short PBOR) subject to total qualifying service including weightage not exceeding 33 years. Therefore, grievance of the petitioner is that his pension has not been properly fixed up in view of recommendations of 4th Central Pay Commission.

4. A reply was filed by the respondents wherein they pointed out that as per para no.5 of the circular dated 14.07.1998, the purpose of consolidation of the pension as on 01.01.1986 of

those PBOR who retired before 01.01.1986 was so that they may be treated alike to those who have retired on or after 01.01.1986. Therefore, the weightage of 5 years in the qualifying service which is available to the PBOR under the Ministry of Defence letter dated 30.10.1987 has been extended in respect of the pre-1986 pensioners and thus also the petitioner. Then it is pointed out that petitioner's pension has been fixed at Rs.102/- per month with effect from 09.01.1969 to 31.12.1985 which has been revised to Rs.375/- per month with effect from 01.01.1986 to 31.12.1995. The petitioner has also been given one time increase of Rs.440/- per month with effect from 01.01.1992 to 31.12.1995 in accordance with Table 21 of the Government of India, Ministry of Defence letter dated 16.03.1992. Thus, revising his pension to Rs.815/- per month with effect from 01.01.1992 to 31.12.1995 and further his pension has been revised to Rs.2,519/- per month with effect from 01.01.1996 which is as per Table 108 of the Ministry of Defence letter dated 14.07.1998.

5. But the question is whether in fact the weightage of 5 years was given to the petitioner or not in terms of order dated 30.10.1987, the representative of PCDA (P), Allahabad was called

and he explained to us that as per rules the petitioner who was retired prior to 1986, his pension is to be brought first at par with post 1986 retirees as a Chief Artificer 'A' having rendered 15 years of service and his maximum pay was Rs.2,730/-. Thus the pension as per 4th Central Pay Commission is to be worked out as:-

$$2730 \times 50\% \times (15+5)/33 = 1365 \times 20/33 = \text{Rs.828/-}$$

Therefore, it is pointed out that post 1986 retirees as a Chief Artificer 'A' have maximum pay scale Rs.2730/- and a person who has put in 15 years of service was entitled to have this much of maximum pay scale and according to this circular the 50% will be his pension on completing 33 years of service, thereafter, 15 years of service plus 5 years of weightage was taken into consideration and the amount of pension was worked out as Rs.828/- on 01.01.1996. Therefore, this calculation appears to us to be justified.

6. But the grievance of the petitioner is that he has not been paid Rs.828/- as pension from 01.01.1986 and therefore, his pension has not been fixed up taking into consideration Rs.828/- with effect from 01.01.1986 in 5th and 6th Central Pay Commission.

7. However, as per paragraphs no.5 and 6 of the circular dated 14.07.1998, the pension so worked out shall be calculated as on 01.01.1996 in accordance with provisions contained in para 4.1.1. of Ministry's letter dated 24.11.1997 and shall be treated as basic pension for the purpose of grant of dearness relief from time to time. Therefore, respondents are directed to work out the pension of petitioner as per calculation made out by the representative of PCDA (P) Allahabad that his pension should have been fixed at Rs.828/- on 01.01.1996 as per 4th Central Pay Commission and after that other benefits which follows may be given to the petitioner with effect from 01.01.1996 and accordingly, the amount of difference may be paid to the petitioner within 3 months from today.

8. The petition is accordingly disposed of with no order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
May 20, 2010.