

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

T.A. No. 462/2010

[W.P. (C) No. 9371/09 of Delhi High Court]

Ex Sepoy Chhalu Ram

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh.Randhir Singh Kalkkal, 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  
19.04.2010**

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 orders dated 04.03.2005, 04.06.2005 and 06.12.2005 may be quashed and respondents may be directed to restore his reservist pension with effect from 16.01.1974 along with interest.

3. Brief facts which are necessary for the disposal of present petition are that petitioner was enrolled in Army on 17.10.1957 after being found medically fit. He was sent to Reserve establishment on 28.06.1966. After completion of 15 years of service, he became entitled for reservist pension. He was granted reservist pension by the Authority vide pension payment order no.S/14847/73 with effect from November, 1972. He was re-enrolled in Defence Security Corps (in short DSC) on 15.01.1974 and therefore, his reservist pension was suspended by the Authority. He was invalided out from service in low medical category with assessment of 100% disability with effect from 23.06.1977 and he was granted disability pension and he is drawing the same since 24.06.1977. Now the grievance of the petitioner is that his reservist service has not been taken into consideration. Therefore, he filed the present writ petition before

Hon'ble Delhi High Court with a prayer that his reservist pension may be restored. The petition was transferred to this Tribunal after its formation.

4. A reply was filed by the respondents wherein they took the position that his reservist service is not counted as per regulation 142(c) (iv) of Defence Service Regulation. It is further pointed out that since petitioner is in receipt of service element of pension for life, as revised from time to time, which was calculated equivalent to service pension for the aggregate service rendered by him in both spells, therefore, he is not entitled for restoration of his reservist pension as per regulation 142(c) (iv) as well as regulation 267 of Pension Regulations. It is also pointed out that petitioner new well that his reservist service cannot be taken into consideration due to aforesaid regulations. It is further pointed out that present petition is highly belated as he filed the same after 32 years.

5. Be that as it may but in view of the fact that a person who has coloured service and thereafter, he has gone to reservist and thereafter, he is appointed in DSC then as per regulation 142(c) (iv), his reservist service has to be ignored for the purposes of calculating the pension. In the present case, petitioner's coloured service and DSC period have been counted together and his pension is released to him. Therefore, petitioner is not entitled for restoration of his reservist pension.

6. Learned counsel for petitioner next submitted that since the petitioner has been released from the DSC service on account of 100% disability but his disability is now reduced to 20%, therefore, he may be given the benefit of broad banding in view of circular of Ministry of Defence dated 31.01.2001 to the extent of 50%. This circular became effective from 01.01.1996. The Authorities may consider rounding up his disability from 20% upto 50% with effect from 01.01.1996 in view of aforesaid circular. The amount may be worked out and be paid to the petitioner with arrears. Since petition is extremely belated, we are not awarding

any interest on it. The whole amount should be paid to the petitioner within 3 months from today.

7. The petition is allowed in part accordingly with no order as to costs.

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

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

**New Delhi**  
**April 19, 2010.**