

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

T.A. No. 486/2009  
[W.P. (C) No. 10459/2006 of Delhi High Court]

Janeshwar Prasad .....Petitioner

Versus

Union of India & Others .....Respondents

For petitioner : Sh. N.L. Bhareja with Sh. Anil Gautam,  
Advocates.

For respondents: Sh.Romil Pathak, Advocate, proxy counsel for  
Dr. Ashwani Bhardwaj, Advocate.

**CORAM:**

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

**ORDER  
01.10.2010**

1. Petitioner by this petition has prayed that by writ of mandamus respondents may be directed to release the pensionary benefits accrued to him from the date of his removal from the regular and permanent employment/service in Indian Army i.e. 09.06.2000. Petitioner may also be awarded interest on the due and outstanding amount of pension from the said date till

payment. It is further prayed that respondents may be directed to pay remaining unsettled/unpaid service benefits.

2. Petitioner was enrolled in the Indian Army on 05.06.1985 and discharged on 09.06.2000. Petitioner earned number of red and black entries which read as under :-

- (a) Overstaying leave – 14 Jun 1994 to 16 Jul 1994 – 33 days.
- (b) Overstaying leave – 6 Aug 1995 to 02 Apr 1996 – 241 days.
- (c) Overstaying leave – 03 Sep 1996 to 11 Oct 1996 – 39 days.
- (d) Rigorous Imp – 23 Nov 96 to 19 Feb 97 – 89 days.
- (e) Overstaying leave – 25 Oct 1997 to 04 Nov 1997 – 11 days.
- (f) Rigorous Imp. – 10 July, 1999 to 23 July, 1999 – 14 days.
- (g) Overstaying leave – 01 Sep. 1999 to 23 Sep 1999 – 23 days.
- (h) Rigorous Imp.– 24 Sep. 1999 to 07 Oct. 1999 – 14 days.
- (i) Overstaying leave – 22 Mar 2000 to 03 May 2000 – 43 days.
- (j) Rigorous Imp. – 06 May 2000 to 02 Jun 2000 – 28 Days

3. Therefore, petitioner was given show cause notice and he filed reply and after considering it, incumbent was discharged from service. The way petitioner was conducting himself speaks volume from his entries. He has outlived his utility and looking into the nature of red and black entries as reproduced above, we are

not inclined to interfere in the matter. When an incumbent is not likely to become good soldier then such person cannot be retained in public service. Consequently, petition is dismissed. No order as to costs.

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

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

**New Delhi**  
**October 01, 2010.**