

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

T.A. No. 491/2009

[W.P. (C) No. 3307/99 of Delhi High Court]

Ex Nk Jai Prakash

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: None.

For respondents: Sh.Anil Gautam, Advocate for Ms.Saroj Bidawat,
Advocate with Capt Alifa Akbar.

CORAM:

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

**ORDER
27.03.2010**

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

2. Petitioner by this petition has prayed that the
respondents may be directed to grant him service pension on his

rendering 15 years of service from the date of his dismissal i.e. w.e.f. 13.07.1996 along with arrears of pension and gratuity. He has further prayed that a declaration may be given that he is entitled to service pension from the date of his conviction i.e. from 13.07.1996 as the District Court Martial has not passed any further order for forfeiting the pensionary benefits.

3. Petitioner had completed more than 15 years of service in the Army which is minimum requirement for grant of pension. However, he was charge sheeted before the District Court Martial along with two other persons on 29.05.1996 under section 69 of the Army Act read with Section 34 and 201 of the IPC. After completion of the Court Martial proceedings, he was punished along with other two colleagues and he was dismissed from service with the reduction of rank and to suffer rigorous imprisonment for six months. This punishment was confirmed by the confirming Authorities. Against this petitioner filed a petition before the respondents but the same was rejected. Meanwhile petitioner also filed a petition before the Hon'ble President of India for grant of pension as he had put in 15 years of service. The

petition filed by him before the Hon'ble President of India appears to have not been decided till date as per the reply filed by the respondents.

4. In reply, respondents have only taken the position that according to Regulation 113 (a), *a person who is dismissed from service, is not entitled to pension but the President of India has discretion to grant service pension or gratuity at the rate not exceeding that for which he would have otherwise qualified had he been discharged from the same date.* The petition was filed by the petitioner before the Hon'ble President of India on 14.02.1998 and the reply was filed by the respondents in this petition on 07.03.2000 but they did not mention that what is fate of the representation filed by the petitioner invoking the provisions of Regulation 113 (a) whether petitioner's petition filed before the President of India has been considered favourably or not. Today we are in 2010 still respondents are not in a position to inform what is the fate of petition filed by the petitioner before the Hon'ble President of India. Consequently, we direct let the petition filed by the petitioner before the Hon'ble President of India on 14.02.1998,

if not decided, may be decided forthwith and petitioner may be informed thereof, if not informed so far.

5. Petition is disposed with above observations. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
March 29, 2010.