

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

T.A. No. 498/2010

[W.P. (C) No. 7427/07 of Delhi High Court]

Maj Gurbachan Singh Kochar (Retd.) .....Petitioner

Versus

Union of India & Ors. ....Respondents

For petitioner: Col.S.R. Kalkal(Retd.), Advocate for Sh.Munish  
Tyagi, Advocate.

For respondents: Capt Alifa Akbar.

**CORAM:**

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

**ORDER  
08.04.2010**

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 by a writ of mandamus or any other appropriate writ order or direction, a direction may be issued to the respondents to pay the retirement pension to the petitioner, who retired on 30<sup>th</sup> December, 1984 as Company Commander (Major), Field Company.

3. Brief facts which are necessary for the disposal of present petition are that when petitioner was barely 11 ½ years, he joined Rashtriya India Military College, Dehradun for compulsory military training and final induction into the Indian Armed Forces. He passed the Diploma examination from the said Institution in December, 1964. He passed the said Diploma examination at the age of 15 ½ years. Thereafter, he was sent to National Defence Academy at Pune in 1965 for 3 years Military training which is compulsory for commissioned officers. After that he was sent to India Military Academy, Dehradun for 1 year specialized Military training as a prelude to be placed in a specified branch in the Army. After completion of specialized course of 1 year, he was posted in the Indian Army, Corps of Engineers as commissioned officer in the rank of 2<sup>nd</sup> Lieutenant on 21.12.1969. During tenure of service, he earned many Commendations and Awards. From the period 1976 to 1981, he completed several prestigious and sensitive Military projects for which he was given certain decorations. Thereafter, he was sponsored by the Army for degree of Master of Engineering which he was awarded. While pursuing his studies for the award of

degree of Master of Engineering, he sought premature retirement on compassionate ground. He was given permission to go for premature retirement on compassionate ground with effect from 31.12.1984. Thereafter, he moved request for pension but same was turned down and he was granted only gratuity. It is alleged that he came to know that by virtue of circular dated 17.02.1998, the training period has to be counted towards qualifying service for service pension but in his case, the training period was not counted. He also came to know that the Ministry of Defence issued a directive dated 13.04.2000 to extend the benefit of services rendered as a boy i.e. (service rendered prior to attaining the age of 17 years) for pension and gratuity. Since the respondents did not consider both these circulars, therefore, he is driven to file the present writ petition before the Hon'ble Delhi High Court which was transferred to this Tribunal on its formation.

4. Petition was contested by the respondents and respondents in their reply have said that the petitioner has not completed 20 years of reckonable service for pension, therefore, he is not entitled to pensionary benefits. It is also submitted that the Defence Ministry's letter dated 13.04.2000 is for counting

boy's service as qualifying service for pension but it is not applicable to petitioner as he is not under boy service and he was undergoing studies and he was commissioned only in the year 1969. Therefore, there is no question of counting his period when he was studying in the Military School as such this circular of the Defence Ministry is of no avail to the petitioner.

5. We are of the opinion that since the petitioner has not put in 20 years of reckonable service, therefore, he is not entitled to any pensionary benefits. The amount of Gratuity for the period put in by him in Army service has already paid to him. Consequently, there is no merit in the petition. Same is dismissed. No order as to costs.

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

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

**New Delhi**  
**April 08, 2010.**