

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

T.A. No. 504/2010

[W.P. (C) No. 7303/09 of Delhi High Court]

A.K. SrivastavaPetitioner

Versus

Union of India & Ors.Respondents

For petitioner: Sh.Sunil Mund, Advocate with petitioner.

For respondents: Sh.Gaurav Liberhan, Advocate.

CORAM:

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

**ORDER
21.04.2010**

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 writ of mandamus a direction may be issued to the respondents to

release the retirement dues like gratuity, provident funds, encashment of leave etc. to him with interest and also the proportionate pension for the services rendered by him since 1994. It is also prayed that respondents may be directed to grant him the status of ex-serviceman as he has served the respondents for 14 years.

3. Petitioner joined the Indian Air Force as Medical Officer in the year 1994. Thereafter, he applied for undergoing MD degree course in the year 2000 in Anaesthesia and he was permitted to join the MD degree course which he completed in December, 2003. As per recommendation of service, he was to execute a bond to serve the respondents for a period of 10 years after acquisition of higher degree. In pursuance to this, he executed a bond. It is alleged that on account of some family circumstances i.e. his wife was not feeling well and he was being posted one place to another frequently as such he could not look after his wife, therefore, he asked for premature retirement which was given in the year 2008 but his gratuity and other benefits could not be settled for some period as he did not deposit the

amount of Rs.3 lacs per year as per terms and conditions of letter dated 03.09.1998. The relevant condition reads as under:-

“Armed Forces Medical Services Officers who undertake Advance Courses/PG Studies at AFMC, Pune..... will have a 10 years service liability from the date of completion of such course/study. If they apply for permission to leave the service before completion of the obligatory period and if the same is accepted by the Government they would be required to refund to the Government a sum of Rs.3 lacs for each year unfulfilled liability subject to a maximum of Rs.15 lacs.”

4. Petitioner has put in 5 years of service after acquiring the MD Degree i.e. from 2003 to 2008. As per aforesaid term and condition, petitioner is required to pay a sum of Rs. 3 Lacs for each year of unfulfilled liability subject to a maximum of Rs. 15 Lacs. Authorities kept on sending correspondences to the petitioner and meanwhile when matter remained under correspondence for some time, the Sixth Central Pay Commission came into force. In case Sixth Central Pay Commission has not come into force then petitioner would not have fulfilled liability of Rs. 15 Lacs and more money would have been due from the petitioner. The details thereof were given by the respondents. It is pointed out that before Sixth Central Pay Commission came in force, petitioner would have got retirement gratuity of

Rs.3,50,000/-, service gratuity Rs.6,73,205/-, leave encashment Rs.1,87,832/- and DSOPF Rs.67,133/- and total of these comes to Rs.12,78,170/- that means it was short by approximately Rs. 3 Lacs. But the respondents did not effect that recovery and directed the petitioner to be released on compassionate grounds. But meanwhile Sixth Central Pay Commission came and amount of retirement gratuity, service gratuity, leave encashment, DSOPF, pay arrears increased i.e. retirement gratuity Rs.4,81,862/- (approximately), service gratuity Rs.9,63,725/- (approximately), leave encashment Rs.2,68,891/-, DSOPF Rs.67,133/- and pay arrears Rs.5,59,958/-. After adjusting this amount towards Rs.15 Lacs as per the conditions of the bond, the petitioner has already been released a sum of Rs.8,90,000/- and it is admitted by learned counsel for the petitioner. However, **if there is any amount due to the petitioner, same may be released to him forthwith.**

5. Learned counsel for the petitioner submitted that he may be paid interest on that delayed payment. Petitioner is not

entitled to any interest as respondents did not claim any interest for shortfall of the amount as per the terms and conditions.

6. So far as the grant of pension is concerned, he is not entitled to same as he has not put in full period of engagement as such he is not entitled to pensionary benefits.

7. Consequently, petition is disposed of with above observations.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
April 21, 2010.