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

TA No.644/2009

[WP (Civil) No.7097/99 of Delhi High Court]

Ex. Hav. Balwant Singh

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Col. S.R. Kalkal, Advocate.

For respondents: None.

CORAM:

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

**ORDER
07.01.2010**

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

2. Petitioner by this writ petition has prayed by writ or direction petitioner's pension and gratuity may be released to him.

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3. Brief facts which are necessary for disposal of present petition are that petitioner was enrolled in Indian Army on 08.02.1962 and with passage of time he was promoted to the rank of Havaldar. Petitioner suffered from Tuberculosis and admitted in Sanitorium Hospital at Pune for his treatment for 9 months. However, petitioner was charged when he was posted at Ambala and he has committed certain frauds under Section 52 (f) of the Army Act and he was tried by General Court Martial and he was found guilty and he was convicted for the same. He was reduced in the rank and dismissed from service and was imposed with the civil imprisonment of four years. This punishment was confirmed by Higher Authorities on 14.09.1978, accordingly petitioner was discharged from service. As a result his pensionary benefits and other benefits of the service were forfeited. His case was examined by the authorities under Section 113 (b) but he was not given any benefit whatsoever. Hence, petitioner approached before Hon'ble Delhi High Court for grant of pensionary benefits as well as other post retirement benefits by filing the present petition.

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4. We have heard learned counsel for the petitioner and perused the record.

5. Normally as per Section 113 (a) when a person is dismissed from service he is ineligible for all pensionary benefits of service. However, in Section 113 (b) Government reserves the power to grant a service benefit on examining of individual case and if they feel that it will be in consonance with justice to grant him benefit of pension partly or fully, the Government can do the same. However, in the present case the matter was referred under Section 113 (b) to DGST for grant of some pensionary benefits but it was rejected.

6. We have bestowed our best of consideration and we are not inclined to direct any favourable consideration for grant of pensionary benefits to petitioner because of his conduct. He was found guilty under Section 52 (f) Army Act, 1950 and sentenced to 4 years RI which was confirmed by the higher authorities. Therefore, for such person we do not feel persuaded to direct the Government to reconsider the matter in the light of Section 113 (b)

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of the Act. We are not inclined to interfere in such matter. Same is accordingly dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
January 7, 2010.