

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

O.A.No. 582 of 2010

Ex.CPL S.P. Manchanda

...Petitioner

Versus

Union of India & Anr.

...Respondent

For the Petitioner : Sh. Inderjiet Singh, Advocate

For the Respondents: Ms. Barkha Babber, Advocate

C O R A M:

**HON'BLE MR. JUSTICE A.K.MATHUR, CHAIRPERSON
HON'BLE LT.GEN. S.S.DHILLON, MEMBER (A)**

ORDER

10.02.2011

1. Petitioner by this petition has prayed that respondent may be directed to accord time barred sanction to the applicant for commencement of his pension w.e.f. the date of his discharge from the Air Force.

2. The petitioner was discharged from the Air Force on 21.06.1969 on completion of 09 years of regular service and six years of Reserve Qualifying Service. He was granted Reservist Pension for life @ Rs.15/- per month w.e.f.22.06.1969 vide PPO No.S/25924/70 issued by the Respondent. It is alleged by the petitioner that due to personal problems i.e. that his wife was suffering from the deadly disease of cancer, he was entirely involved in her treatment, consequently he could not pursue his case of pension with the authorities and he could only approach the office of PDA-GPO New Delhi for collection of his first pension in 1979-80. Thereafter, he approached the office of PDA-GPO New Delhi in the year 1981 for commencement of his pension and he was directed to produce his pension book and the copy of PPO which he submitted accordingly. But he was informed by the PDA-GPO New Delhi that his pension had already lapsed due to non-collection of the pension for last many years.

3. Then petitioner made a representation for revival of his pension and he was directed by Office of CDA(P) Allahabad to produce certain affidavits and medical certificates along with his pension book and copy of PPO which was sent by the petitioner in September 1981 by registered post.
4. In the year 1981, the petitioner's wife expired and he was under constant depression due to death of his wife and could not process his case further for revival of his pension. He again approached PDA-GPO, New Delhi and he was informed by the Record Officer that the entire record pertaining to Military Pensioners had been transferred from GPO, New Delhi to the Office of DDPO-II, Red Fort Delhi in the year 1985-86 and was directed to approach DDPO-II office for further processing of his case.

5. Then he was informed by DDPO-II, Red Fort, Delhi that they were not in receipt of his pension papers from post Office, GPO, New Delhi and the applicant was made to shuttle from one office to another. Finally in the year 2004, the applicant approached the office of PCDA (P), Allahabad again for restoration of his pension. There was prolonged correspondence between Respondent No.5, Air Force Record Office, Post Master, Gol Dak Khana, Office of PDA-GPO, New Delhi, DDPO-II, Red Fort ,Delhi PCDA(P), Allahabad and CDA (PD), Meerut Cantt. on the subject during the years 2004-2008. He has given various correspondence as Annexure A-3 to A-5.

6. Thereafter, Respondent No.5 by their letter dated 11.07.2008 reconfirmed to the petitioner that he had been granted Reservist Pension @ Rs.15/- per month w.e.f.22.06.1969 and petitioner was entitled to revised consolidated pension @ Rs.1275/- per month w.e.f.01.01.1996. The applicant requested to release arrears of pension but same was denied

to him on the ground that applicant drew pension after long time & explanation was not found convincing to the competent authority. Thereafter, after filing various representations, the petitioner has ultimately filed the present petition before this tribunal.

7. A counter has been filed by the respondents who have admitted that applicant was enrolled in the Indian Air Force on 22.06.1954 and was discharged on 21.06.1969 under the clause "On fulfilling the conditions of his enrolment" and he was sanctioned reservist pension w.e.f.22.06.1969 @ Rs.15/- per month for life and applicant could not collect his pension after retirement and ultimately he was accorded pension from 12.05.2009. It is pointed out that as per the provisions of Para 91(a) and (b) of Pension Regulation Part-II (Army), it says that:

91 (a) "Claims to arrears of pension referred within a period of 12 months of the due date shall be entertained and paid by the pension disbursing officer, if otherwise in order. Claims preferred after the expiry of one year and within three years shall be entertained and paid by the competent authority if it is satisfied

with the claimant's explanation for the delay in drawing the pension.

91(b) "If after the expiry of three years no explanation has been received of the cause of pensioner failing to draw his pension, he shall be struck of the pension establishment. If he thereafter reappears to draw his pension he may be readmitted to the pension establishment if he accounts for his failure to draw the pension, to the satisfaction of the competent authority. That authority shall, at its discretion, grant or withhold the arrears of the pension or any portion thereof."

Therefore, the authorities have pointed out that the explanation given by the petition was not found satisfactory and consequently his arrears of pension were denied to him.

8. We have heard learned counsel for both the parties and perused the record.
9. Petitioner in his petition has clearly mentioned that since his wife was suffering from breast cancer and she ultimately expired in 1981, therefore, he could not pursue the matter seriously. After that when he started pursuing the matter and he was told that all the papers had been transferred from one place to another and in that connection he kept on

corresponding and going from pillar to post and ultimately he was sanctioned the pension from 12.05.2009.

10. Learned Counsel for the petitioner has submitted that in fact pension is not a bounty or a charity given by the government, it is a right of the pensioner and he is entitled to have it. May be on account of circumstances beyond his control, he could not secure his pension in time and he filed a representation for condonation of the period, but same was not condoned and he has been denied the pension for the service done by him to the Nation.
11. Learned Counsel for the Respondent submitted that petitioner's explanation was not found satisfactory, therefore, as per the Para 91(a) and (b) of Pension Regulation Part-II (Army), the authorities have declined the payment of arrears of pension, however, they granted him the pension in 2009.
12. We have bestowed our best consideration to the rival submissions. The explanation given by petitioner appears to

be justified that his wife was suffering from cancer and thereafter she died in 1981, he was under depression on that count and ultimately when he overcame his grief, he made various representation to the authorities since 2003 to release his arrears of pension. There was totally unsympathetic and insensitive attitude on behalf of the respondent. Since pension is not a bounty, it is his right which he has earned by rendering 15 years of service to the Nation, we fail to appreciate why his arrears have not been granted to him. We can appreciate that he may not be allowed interest over the arrears, but totally denying claim of arrears of pension is unfair & arbitrary. He has explained his plight that because of his wife's disease of breast cancer and ultimately when she succumbed to it in 1981, he remained in depression and it was only thereafter that he started making representations, when he was told that his pension papers were shuttle cocking from one office to

another and ultimately he succeeded in 2009 to get his pension released.

13. Therefore, in these circumstances, the approach of the authorities in declining him the arrears of pension is unwarranted and heartless. That incumbent could not secure his pension for reasons beyond his control, therefore the matter should have been approached in a more humane manner and not in such arbitrary manner resulting in forfeiture of his arrears entirely. Since the amount of pension is an earned right of the petitioner, may be that he failed to secure it in time, therefore, he will lose interest on the arrears, but State cannot be permitted to illegally enrich itself by not paying his arrears of pension.

14. Therefore, in view of the above reasons, we are of the opinion that petitioner is entitled to pension and the same should be released to him, however, he will not be entitled to interest on arrears because he did not wake up in time. That is enough

punishment for the petitioner. Respondents are directed to work out the entire arrears and release the amount to the petitioner within the period of three months from today without any interest.

15. The petition is allowed and no order as to costs.

[Justice A.K. Mathur]
Chairperson

[Lt. Gen. SS DHILLON]
Member (A)

New Delhi
10th February, 2011