

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

**24.**

**O.A. No.145 of 2011**

**Lt. Col. S.J. Chaudhari**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner:** Mr. Sukant Vikram, Advocate.

**For respondents:** Mr. Anil Gautam, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.**

**HON'BLE LT. GEN. S.S.DHILLON, MEMBER.**

**ORDER**

**27.04.2012**

1. Petitioner vide this petition has prayed that respondents be directed to calculate, fix and pay the proper pensionary and other retirement benefits admissible to the petitioner along with past dues from 31.01.1988 until date along with all allowances, revisions of pay and other admissible benefits. It is also prayed that deductions made by the respondents from the petitioner's pension vide letters dated 12.12.1989, 10.04.1990 and 02.07.1991 be declared as wrong, illegal and unjust and petitioner be compensated for the same. It is also prayed that directions be issued to the respondents to give the proportionate monetary benefits to the petitioner for the period during which he was eligible for reemployment but was not reemployed.

2. Petitioner was commissioned in the Army on 02.06.1955 and was promoted to the rank of acting Lt Col (Selection Grade) on 14.01.1975. Thereafter on 01.06.1983, petitioner was further promoted to the rank of an acting Colonel and was working on that rank on the date of his

superannuation. He was falsely implicated and charged by the Central Bureau of Investigation (CBI) for murder under Section 302 of the Indian Penal Code on 30.10.1983 and was suspended from duty w.e.f. 31.10.1983. At that time, petitioner was working as an acting Colonel in the Directorate of Standardization, Ministry of Defence.

3. Petitioner retired from service on 31.01.1988 vide Army Headquarters MS Branch letter dated 23.04.1987 as a Lt Col at the age of 52 years, in accordance with the existing policy for the retirement of a substantive Lt Col and his pension was fixed as a Lt Col as per the letter dated 03.05.1988. It is submitted that vide letter dated 12.12.1989, petitioner's rank was reduced to that of a substantive Major from that of a Substantive Lt Col and vide letter dated 10.04.1990 his pension amount has been revised to Rs. 2205/- per month w.e.f. 01.02.1988 and that an amount of Rs.22,127/- was notified for recovery on the basis of overpayment of pay and allowance as intimated by the CDA (O).

4. Unfortunately, petitioner was convicted by the trial court for murder under Section 302 IPC, however he was acquitted by the Hon'ble Delhi High Court from the said offence vide order dated 15.05.2009. Aggrieved by the order of Hon'ble Delhi High Court dated 15.05.2009, CBI approached the Hon'ble Supreme Court by filing a SLP (Crl). As per order of Hon'ble Supreme Court dated 18.12.2009, notice has been issued in the said SLP and it has been tagged with SLP (Crl) No. 7394 of 2009.

5. Since the petitioner's acquittal is subject to order of the Hon'ble Supreme Court as SLP is pending disposal, therefore, at this stage question of quantum of pension cannot be determined. Therefore, it will be premature to adjudicate that how much pension petitioner will be entitled to receive. Petitioner is already getting provisional pension. In case, CBI does not succeed in the SLP preferred by them before Hon'ble Supreme Court then petitioner will be entitled to all consequential benefits. It will be open for the petitioner to seek review of his case for pensionary benefit after the decision of the Hon'ble Supreme Court. Meanwhile, learned counsel for the respondents is directed to furnish to the petitioner the details of provisional pension which he is already getting.

6. Petition is disposed of in the light of aforesaid observations. No order as to costs.

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

**S.S. DHILLON**  
**(Member)**

**New Delhi**  
**April 27, 2012**  
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