

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

13.

O.A. No. 17 of 2011

Major H.S. Khokhar

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Naresh Ghai, Advocate.

For respondents: Mr. R. Balasubramanian, ASG.

CORAM:

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

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

ORDER

19.07.2012

1. Petitioner by this petition has prayed that he may be granted pension with interest @ 12% for his 15 years, two months and 14 days qualifying service as ordered in case of his late ex-colleague **Maj. S.M. Gupta (O.A. No. 207 of 2010) decided on 12<sup>th</sup> August 2010** by relying on the judgment in case of **Maj. S.D. Singh v. Union of India & Ors. (T.A. 46 of 2010) decided on 19<sup>th</sup> February 2010.**

2. The Petitioner belongs to territorial army and he was commissioned on 28<sup>th</sup> September 1960 and retired on 31<sup>st</sup> December 1997. According to Petitioner he has put in 15 years 2 months and 14 days of service. Therefore he has submitted that since the person from territorial army are also governed by the Pension Regulations for Army as held in the case of **S.D. Singh (supra)**, Petitioner should also be given same benefit as was given in the aforesaid case.

3. Learned counsel for the Respondents has opposed this submission and submitted that according to Respondents, Petitioner has put in 14 years 10 months and 15 days of embodied service according to the definition of 'Late Entrants' given in the Regulation 15 of the Pension Regulations for the Army, 1961 which reads as under:

"15. For purposes of the regulations in this Chapter, a 'late entrant' is an officer who is retired on reaching the prescribed age limit for compulsory retirement with at least 15 years commissioned service (actual) qualifying for pension but whose total qualifying service is less than twenty years (actual)."

4. It requires that there should be an actual 15 years commissioned service qualifying for pension for the late entrants. There is no dispute that Petitioner is a 'late entrant' as he has entered in the territorial army and his date of birth is 13<sup>th</sup> November 1928 whereas he retired on 31<sup>st</sup> December 1977 attaining the age of more than 49 years as he was retired prematurely. Therefore, he is not entitled to the benefit of pension as he has not put in actual 15 years of qualifying service. Other issues we have already dealt with in detail in the case of **S.D. Singh** (supra) and we have already held that a person belonging to territorial army is also entitled to pension as an Army Officer but whether Petitioner has put in actual 15 years of service or not is the question in hand. Learned counsel for the Petitioner has invited our attention to Annexure A-1 which is a certificate issued by Territorial Army Directorate and in that actual service of the Petitioner has been given 13 years 8 months and 21 days and he has also appended a certificate from the Indian Air Force where he has said to have served for 1 year and 262 days.

Therefore, according to Petitioner, he has put in more than 15 years of qualifying service but learned counsel for the Respondents has submitted that he has put in 14 years 10 months and 15 days of service. Therefore the only question is that in case we accept the statement of the Petitioner then he has completed more than 15 years of service and if we accept the statement of Respondents then he has completed 14 years 10 months and 15 days of service. Be that as it may, the fact remains that even calculating his service according to the Respondents, he has put in 14 years 10 months and 15 days of service and he is, therefore, short by one and a half month only for qualifying a service. Looking into the facts of this case we find that 10 months may be rounded up to 12 months that will make it 15 years. Since he has already put in 14 years 10 months and 15 days of service and he has been denied only because he is short of one and a half month of actual service. Therefore, we round up 10 months to 12 months and that will enable the Petitioner to qualify service of 15 years and consequently allow the petition and pension due to Petitioner may be released to him accordingly. No costs.

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

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

**New Delhi**  
**July 19, 2012**  
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