

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
08.

O.A. No. 238 of 2010

Lt. Cdr. Gurmukh Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Sukhjinder Singh, Advocate.

For respondents: Mr. J.S. Yadav, Advocate.

CORAM:

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

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

ORDER

11.01.2012

1. Petitioner by this petition has prayed for grant of a pay scale of a Commander with effect from 30th September 1989 on completion of 21 years of reckonable commissioned service after quashing and setting aside impugned order passed by the Respondents on 29th January 2010. He has also prayed that he may be given the rank of Commander (Time Scale) with effect from 30th September 1989 on completion of 21 years of reckonable commissioned service or with effect from 30th September 1992 on completion of 24 years of reckonable commissioned service. He has further prayed that pension of Commander (Time Scale) of Rs. 7,500/- with effect from 1st January 1996 in terms of 5th Central Pay Commission and Rs. 27,500/- from 1st January 2006 being the pension of a Commander in pursuance of 6th Central Pay Commission.

2. Petitioner was recruited on 5th October 1960 and he became a Commissioned Officer in Navy on 30th September 1968 and he completed 21

years of service on 30th September 1989. Meanwhile he also became a Lt. Cdr. He retired on 1st October 1992 after completion of 24 years of reckonable service. He has filed his petition seeking that he must be given a benefit of time scale promotion in the scale of Commander. This petition has been filed at this belated stage when he retired on 1st October 1992. Therefore this prayer at this distant point of time cannot be entertained and the Petitioner rightly did not press it after realising the delay involved in the matter. However, learned counsel for the Petitioner submitted that still he is entitled for benefits of 5th and 6th Central Pay Commissions and in that connection he invited our attention to an order issued on 21st November 1997 and submitted that at least he is entitled to benefit of stagnation as provided in sub para (a) of Clause 1 of the letter dated 21st November 1997. The aforesaid sub para says that the benefit of stagnation will be given to the persons who have a substantive rank of Maj. or equivalent on or after 1st January 1996 and as a one time measure, however, those who become substantive Majors or equivalent before 1st January 1996 will be granted the scale of Lt. Col. or equivalent on completion of 21 years of commissioned service i.e. in their 22nd year with the rank pay of Major. This question came up before us in the case of **V.K. Mehta v. Union of India & Ors. (O.A. No. 146 of 2010 decided on 18th October 2011)** and we have already considered the aspect and rejected the claim in the case of **V.K. Mehta v. Union of India & Ors.** However, learned counsel for the Petitioner tried to justify his claim with reference to the modified parity order dated 17th December 1998 wherein the President has been pleased to decide that with effect from 1st January 1996 pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay introduced

with effect from 1st January 1996 of the post last held by the pensioner. Learned counsel submitted that by virtue of this the situation stands clarified that whether a person is serving or not is not a relevant issue but all those officers who have retired will be given the benefit of 6th Central Pay Commission on the basis of taking their revised pay scale of the equivalent rank and thereafter the pension may be determined on that basis. That may be so but so far as the present case of the Petitioner is concerned that we have already taken a view that it is not applicable to such persons. This modified parity will not come to the rescue of the Petitioner. Hence, we do not find any merit in this petition and same is dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
January 11, 2012
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