

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

O.A. No. 544 of 2011

Ex Nk Mohd. Suleman

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Anil Srivastava, 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
21.03.2012

1. Petitioner vide this petition has prayed that short fall period of 9 months may be condoned and pension for having served in the DSC for 14 years and 3 months be granted.
2. Petitioner was enrolled in the Army on 14.09.1971 in the Corps of EME and subsequently he was transferred to Army Service Corps (ASC) where he was promoted to the rank of Hav. After completion of terms of service, he was discharged from service on 31.09.1995 and earned the Army pension. Thereafter, petitioner was again enrolled in the Corps of DSC on 27.11.1995 as a Sepoy (GD). He was promoted to the rank of Naik in due course and was discharged on 13.01.2010 on attaining the age of superannuation at 57 years. According to the petitioner, he has rendered a total of 14 years 3 months of service in the DSC and is short by 9 months service for completing qualified service of 15 years for earning second pension from DSC. He has, therefore, filed the present petition seeking condonation of shortfall of 9 months service as powers to condone the short fall of service has been given to Army HQ.

3. A reply has been filed by the respondents and it is pointed out that petitioner has put in 14 years and 66 days of service in DSC. However, learned counsel for the respondents submitted that as per recent instructions issued on 14.07.2011, it is clearly mentioned in para 5 that such cases towards condonation of shortfall for second service pension should not be seriously opposed and it may be conceded. Para 5 of the said instruction dated 14.07.2011 reads as under;

“Reduction of Court Cases on Condonation of Shortfall towards Second Service pension

5. All Line Dtes/Record offices will un-conditionally withdraw/concede in such cases on behalf of the Union of India, notwithstanding the stage at which these cases may have reached in Hon’ble Courts across the Country subject to fulfilment of following conditions:-

(a) Such withdrawal/conceding in courts **will be effected** in those cases where individuals have perforce been retired on attaining the age of superannuation with shortfall in service towards Second Service Pension.

(b) Such withdrawal/conceding in court cases **will be effected** immediately in those cases filed by DSC personnel who have although retired with more than 15 yrs of service yet due to any spell of non-qualifying service, they fall short of reckonable service of 15 yrs towards grant of second pension.”

4. Learned counsel for the respondents in all fairness submitted that since the petitioner has already put in 14 years and 66 days of service and short by 9 months and 24 days of service, Government does not want to contest the matter and concede that this period of shortfall may be condoned so as to enable the petitioner to get the second pension of DSC.

5. In view of above discussions, the shortfall of petitioner's service of 9 months and 24 days is condoned. Petitioner will be awarded second pension of DSC. Petition is accordingly allowed. No order as to costs.

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

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

**New Delhi
March 21, 2012
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