COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

8.

OA 2908/2025 WITH MA 4168/2025

Ex JWO Ashok Kumar Sharma ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Madan Pal Vats and
Mr. Abhay Kant Upadhyaya,
Advocates

For Respondents : Ms. Barkha Babbar, Advocate with
Mr. Sushmit Mishra, Advocate

CORAM
HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE LT.GEN. C.P.MOHANTY, MEMBER (A)

ORDER
22.09.2025

MA 4168/2025

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 9480 days in filing the present OA. In the absence of any opposition from the respondents and in view of the judgments of the Hon'ble Supreme Court in the matter of *Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648]*, and in *Ex Sep Chain Singh Vs. Union of India & Ors.* (Civil Appeal No. 30073/2017) and the delay of 9480 days in

filing the OA 2908/2025 is thus condoned. The MA is disposed of accordingly.

OA 2908/2025

2. The applicant, vide the present OA makes the following prayers:

> *"(a) To direct the Respondents to revise the pension on the basis of the last rank held i.e. JWO to the applicant from the date of discharge and issue a fresh Corrigendum PPO accordingly.*
> *(b) To direct the respondent to pay 12% interest on the arrears of pension and other benefits.*
> *(c) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper."*

3. The applicant was enrolled in the **Indian Air Force** on **17th November, 1978** and discharged from service on **30th November, 1999** after completion of his term of engagement with a length of service of 21 years and 14 days. The applicant was promoted to the rank of Junior Warrant Officer (JWO) on 01.10.1999 from the rank of Sergeant and held this rank for 02 month but did not complete 10 months of service in the rank of Junior Warrant Officer (JWO). The applicant submits that as per Policy decision dated 09.02.2001 and 11.11.2008, the pension of all the retired Armed Forces Personnel has been revised on the basis of the

rank/group last held by the individual and the requirement of 10 months service in the last rank held for all the officers and personnel below of the officer rank is waived off.

4. The applicant further submits that with the implementation of the recommendations of the 5th CPC, the condition for holding last rank for 10 months has been waived off and even if a person holds a rank for 01 day, he was entitled for pension of last rank held. Furthermore, the MoD letter No.17(4)/2008(1)/D(Pen/Pol) dated 11.11.2008 expressly states that Rank means rank last held and not the rank for which pensioned. It is submitted by the applicant that he is entitled for the fixation of his pension in the rank of Junior Warrant Officer as per Govt of India Letter No.PC10(1)/2008-D(Pen/Pol) dated 08.03.2010.

5. The applicant places reliance on the order dated 12.02.2016 in OA 105/2015 in case of ***Ex JWO Prabhat Kumar Dey*** Vs ***Union of India & Ors.*** of AFT(RB) Kolkata and order dated 20.03.2013 and in OA No.20/2012 in case of ***Ex Sergeant Vasudevan K.*** Vs ***Union of India & Ors.*** of AFT(RB) Kochi and a catena of orders of this Tribunal.

6. The respondents fairly do not dispute the settled proposition of law put forth on behalf of the applicant in view of the verdicts relied upon on behalf of the applicant.

7. It cannot be overlooked that the verdict dated 29.01.2010 of the Armed Forces Tribunal (PB) in TA 339/2010(WP(Civil) No.567/2002 of Delhi High Court) Ex JWO Bharat Singh Khatana Vs Union of India & Ors. whereby it was observed to the effect that:

> *"According to the provisions of the Armed Forces Rules, the incumbent has to serve at least 10 months on the last rank for full pension of that post but he was not given the pension of the last rank held by him i.e. JWO. Hence, petitioner aggrieved by this filed the present petition before the Hon'ble Delhi High Court which has been transferred to this Tribunal after formation of Armed Forces Tribunal and prayed that his pension may be given on the basis of last rank held by him. In this connection, petitioner has referred to a Notification dated 09.02.2001 whereby the Government of India, Ministry of Defence has issued a Circular implementing the Government decision on the recommendations of Fifth Pay Commission relating to pensionary benefits in respect of commissioned officers and personnel below officers ranks and in that it has been clarified that all Armed Forces pensioners irrespective of their date of retirement shall not get less than 50% of the minimum revised scale on pay introduced w.e.f. 01.01.1996. Since this was not being given by the PCDA, Allahabad and that matter came before the Government and the Government had clarified as under:*
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> > *"It is clarified that pension of all pre-96 retiree Armed forces Personnel will be revised on the basis of the rank/group last held by the individual and the revised pay scales connected thereto, even if the rank/group was held for less than 10 months before retirement. Such pension will be reduced proportionately if the qualifying*

service is less than 33 years. Other conditions to earn pension will continue to apply."

In view of this clarification, we do not find any reason as to why petitioner should not be given pension of the last rank held by him for a period of 06 months. Therefore, condition of 10 months has now been waived by the government. Consequently, we direct that petitioner's pension should be determined in the light of the aforesaid Circular and he may be given the pension @ 50% of the last post held by him as JWO. His pension should be worked out and arrears shall be paid to the petition with 12% interest. This whole exercise should be done within three months from today. Petition is according allowed. No order as to costs."

has been upheld vide order dated 08.03.2016 of the Hon'ble Supreme Court in ***Union of India & Ors.*** vs ***Ex JWO Bharat Singh Khatana*** Civil Appeal no. 7366-7367/2011.

8. The orders relied on behalf of the applicant make it apparent that pension cannot be declined to an individual for the rank he last held and rendered his services as laid down in ***Thiagrajan*** vs ***UoI & Ors*** in OA 93/2014 by the (RB) Chennai. The said statutory right already earned by the applicant cannot be reduced even if an undertaking is executed by him for the receipt of any lower pension in a lower rank from that what he last held. Vide a catena of cases of this Tribunal, it has been laid down that the Defence personnel are

entitled to the benefits of the last rank held by them even if it has been of a duration of less than 10 months.

9. Thus, the respondents are required to implement the calculation of pension of the applicant in the rank of JWO as he is similarly placed as the applicant in the case of ***JWO P Gopalakrishnan*** vs ***UoI & Ors.*** in OA 62/2014 decided on 13.02.2015, by the AFT(RB), Chennai and OA 1038/2017 in the matter of ***Ex-JWO Krishna Moorthy K & Ors.*** Vs ***UoI & Ors.***

10. Inter alia, the Hon'ble Supreme Court in ***Uttaranchal Forest Rangers' Assn. (Direct Recruit)*** v. ***State of U.P.***, (2006) 10 SCC 346 has adverted to its verdict in ***State of Karnakata and Ors*** Vs ***C.Lalitha*** (2006) 2 SCC 747 wherein it has been observed that service jurisprudence evolved by the Hon'ble Supreme Court postulates that all the persons similarly situated should be treated similarly.

11. The OA 2908/2025 is thus allowed subject to verification of date of enrolment and the date of promotion to the rank of JWO and the respondents are directed as under:-

(i) Calculate the pension of the applicant based on the last held rank by him before retirement i.e. Junior Warrant Officer, and in consonance with

the principles of calculation that have been upheld in *JWO Gopalakrishnan* in this regard; and

(ii) The applicant will be accordingly issued a fresh Corrigendum PPO in the last rank held by him within two months and the arrears paid accordingly, *failing which*, it shall carry interest @ 6% till actual payment.

12. No order as to costs.

13. Pending MAs, if any, stand disposed of.

(JUSTICE NANDITA DUBEY)
MEMBER (J)

(LT.GEN. C.P.MOHANTY)
MEMBER (A)

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