

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

1.

OA 166/2025 with MA 324/2025

655081 Ex Cpl Baboo Dan Charan ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr.Raj Kumar, Advocate  
For Respondents : Mr Pankaj Sharma, In-Charge, DAV

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
06.02.2025

MA 324/2025

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 14375 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of *UoI & Ors Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 324/2025 is allowed and the delay of 14375 days in filing the OA 166/2025 is thus condoned. The MA is disposed of accordingly.

OA 166/2025

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

*“(a) Direct the respondents to grant Pro-Rata Pension to the applicant and pay the due arrears of pension with interest @12% p.a. wef discharge from service with all the consequential benefits.*

*“(b) Any other relief which the Hon’ble Tribunal may deem fit and proper in the light of facts and circumstances of the case in favour of the applicant.”*

2. Notice of the OA was issued to the respondents which is accepted on their behalf.

3. The applicant in the instant case is aggrieved with the action of the respondents of not granting him the benefit of Pro-Rata Pension for the services rendered in the Indian Air Force. The applicant was enrolled in the Indian Air Force on 28.01.1975 and after rendering more than 10 years of service was discharged from the Indian Air Force at his own request on 06.03.1985 for taking up an appointment as Branch Manager in the Sriganaganagar Kshetriya Gramin Bank, Srignaganagar. The applicant submits that he had applied for the post of an Officer through proper channel and that the respondents vide No. Air HQ/40726/1/1/PA/RO dated 08.02.1985 had issued a No Objection Certificate to the applicant to appear in the recruitment process for the post of an Officer and that the

applicant was selected. Thereafter, the respondents discharged the applicant from the Indian Air Force service to permit him to join the concerned bank vide letter No.NDS/512/1/1/P3 dated 28.02.1985 communicated to AFRO, New Delhi regarding immediate discharge of the applicant from service and it was categorically mentioned in Para 2 of the said letter that "It is further intimated that he was issued with NOC by 2<sup>nd</sup> Addressee vide the letter No. Air/HQ/40726/1/1/PA/RO dated 08.02.1985." The applicant submits that he fulfils the condition for the grant of pro-rata pension and is entitled to the grant of the same.

4. The applicant submits that he made a representation dated 13.02.2024 to the respondents requesting for grant of the benefit of pro-rata pension for the services of more than 10 years rendered in the Indian Air Force in terms of judgment dated 19.01.2019 passed by the Hon'ble High Court of Delhi in WP( C) No.10026/2016 titled *Govind Kr Srivastava Vs UoI & Ors.* and a catena of other judgments and in terms of letter/circular No.8(3)/86/A/D(Pension)/Services) dated 19.02.1987 issued by the Ministry of Defence, Govt of India, containing the provisions for the grant of Pro-Rata Pension to the commissioned officers of Armed Forces who after 10 years of service joined a public sector undertaking which had been extended for the benefit of PBORs also.

5. The learned counsel for the applicant places reliance on the verdict dated 19.01.2019 of the High Court of Delhi in *Govind Kumar Srivastava Vs Union of India & Ors* in W.P.(C) No.10026/2016 wherein vide para-8 of the said verdict, the Hon'ble High Court of Delhi, held to the effect:

*"Para 8- The discrimination meted to PBOR/NCO like the applicant in the matter of grant of pro-rata pension is violative of Article 14 of the Constitution as it is not based on any rational criteria or principle. In other words, while the Commissioned Officer of the IAF are granted such pro-rata pension that benefits is not available to the PBOR/NCOs in terms of letter/circular dated 19.02.1987 issued by the MoD. The circular/letter states that pro-rata pension will be available only to Commissioned officers of the Defence Services on their absorption/appointment in the Central Public Enterprises under the control of MoD. The eligibility for receiving such pro-rata pension is the completion of 10 years of qualifying services in the defence services."*

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. The law on 'pro-rata pension' has already been laid down by the Hon'ble High Court of Delhi in the case of *Brijlal Kumar Vs Union of India and Ors* connected petitions 2020 SCC Online Del 1477 and in *Govind Kumar Srivastava Vs Union of India* 2019 SCC Online Del 6425(D B) against which the SLP(C) No.8813/2019 has been dismissed on 26.04.2019, though the question of law was left open.

8. Thus, as the issue referred to under consideration in the present OA is no longer *res integra* in view of the verdicts of the Hon'ble High Court of Delhi in *Brijlal Kumar Vs Union of India and Ors* and connected petitions 2020 SCC Online Del 1477 and in *Govind Kumar Srivastava Vs Union of India* 2019 SCC Online Del 6425(DB) against which the SLP(C) No.8813/2019 has been dismissed on 26.04.2019 and in OA 690/2016 titled *Ex Sgt Godina Rajasekhar Vs Union of India & Ors* dated 10.11.2017 of the Armed Forces Tribunal(PB). As the facts of the instant cases are in *pari materia* with the facts of the abovementioned cases, as the applicant in the instant case had completed the period of qualifying length of service for eligibility of pro-rata pension of 10 years and as the applicant herein joined the State Bank of India as a Probationary Officer, after issuance of a No Objection Certificate by the respondents issued vide Letter No. Air HQ/40726/4/PA(RC) dated 27.08.2008, the applicant herein is entitled to the grant of pro rata pension. The OA No. 166/2025 is thus allowed.

9. The respondents are thus directed to:

(a) pay pro-rata pension to the applicant w.e.f. from the date of discharge along with arrears within a period of three months from the date of receipt of copy of this order failing which the arrears shall attract interest @6% p.a. till the date of actual payment.

10. However, in view of the verdict of the Hon'ble Supreme Court in *Union of India & Ors Vs Tarsem Singh* (2008) 8 SCC 648, the payment of the arrears for the grant of the pro rata pension shall be confined to commence from a period of three years prior to the institution of the present OA.

11. There shall be no order as to costs.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL ~~DHIREN VIG~~)  
MEMBER (A)

/CHANANA/