

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

56.

OA 1434/2018 with MA 2746/2019

Capt J B S Anand (Retd)

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : None

For Respondents : Mr. Vijendra Singh Mahndiyan, Advocate
with Ms. Apurva Mahndiyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
25.04.2025

There is no representation on behalf of the applicant.

2. MA 2746 of 2019 which is listed for the day has been erroneously listed, in as much as it was an application filed by the respondents seeking waiver of costs imposed vide order dated 07.05.2019. The proceedings of the date 14.02.2023 indicate that the said costs were deposited by the respondents and the receipt in relation thereto is placed on the record at page 49. In view of the submission of the said costs, the counter affidavit of the respondents had been allowed, to be taken on record vide order dated 14.02.2023. Apparently, MA 2746 of 2019 does not survive.

3. The applicant vide the present OA makes the following prayers:-

“(i) to set aside the orders of the Adjutant General issued vide their letter number 12681/SS-21826/T-5/MP5(b) dated 15 Jun 2018, Annexure A1.

(ii) To direct the Respondents to sanction pension the Applicant for the rank of Major with effect from 14 January 2000.

(iii) To direct the Respondents to pay the Arrears of pension with suitable interest with effect from 14 January 2000.

(iv) To grant any other relief as the Hon’ble members of the Tribunal may deem appropriate.”

4. As brought forth through the averments made from the OA and the counter affidavit of the respondents, the applicant who was commissioned in the Indian Army on 12/1/1969 as a Short Service Commissioned Officer was released from service on 10/4/1979. The applicant is in receipt of pension in the rank of Captain and the applicant places reliance on the Government of India, Ministry of Defence letter no 14(1)/98/D(AG) dated 14.01.2000 to submit to the effect that he be granted pension in the rank of Maj wef 14.01.2000.

5. Though, the applicant is not represented today, we have taken up the matter for consideration despite his absence and despite no representation on his behalf, in view of the factum that the matter in issue is no longer res integra in view of the verdict of the Hon’ble Supreme Court in *Suchet Singh versus Union of India and others* decided in Civil Appeal Numbers 770-771 of 2018 vide judgment dated 21.02.2018 whereby the very letter on which the applicant relies upon is referred to in paragraph 23 of the verdict of the Hon’ble Supreme Court in the observations in

paras 22 and 23 of the order of the Hon'ble Supreme Court read categorically to the effect:-

"22. The order dated 14.01.2000, on which also reliance has been placed by the applicants to support their contention that earlier prescription of 21 years has been reduced to 20 years also needs a comment. The order dated 14.01.2000 issued by the Ministry of Defence was to the following effect:-

*"No. 14(1)/98/D(AG)
Government of India,
Ministry of Defence,
New Delhi, the 14th January, 2000.*

To

*Chief of the Army Staff
Chief of the Naval Staff
Chief of the Air Staff*

Subject : Implementation of Vth Pay Commission Recommendations –

Para 147.21 Conditions regarding grant of substantive rank to officers of Army, Air Force and Navy.

Sir,

In supersession of the existing orders on the grant of substantive promotion to officers of Army, Air Force and Navy, the President is pleased to sanction the following revised years of service required for promotion to substantive cadres of the following services/Corps :-

<i>Arms/Service/Corps</i>	<i>Lt. & Equiv.</i>	<i>Capt. & Equiv. (Years)</i>	<i>Major & Equiv. (Years)</i>	<i>Lt.Col. (TS) & Equiv. (Years)</i>
<i>(i) Officers of Services other than AMC, ADC, MNS, RVC, SCO, MF, SL, SD List Officers (Navy) & RCO Officers</i>	<i>On completion of training</i>	<i>4</i>	<i>10</i>	<i>20</i>

23. A reading of the aforesaid order indicates that revised years of service required for promotion of substantive cadres were provided for. The promotion to substantive cadres, which was specifically referred to in the Government order was clearly with regard to officers, who were in service on 01.01.1996, which was the date for implementation of Vth Pay Commission recommendations. The said order dated 14.01.2000 was not issued for giving any benefit to those who retired prior to 01.01.1996."

6. It has been laid down categorically thereby that the said Government of India Order dated 14/1/2000 was not issued for giving any benefit to those who retired prior to 01.01.1996. The applicant in the instant case had already retired much prior to the date 01.01.1996, he having retired on 10/4/1979. In view of the said circumstances, the prayers made by the applicant cannot be granted and the OA is dismissed.

7. In the interest of justice, copy of this order be served on the applicant and counsel for the applicant in as much as they are not present today.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

AP