

**ARMED FORCES TRIBUNAL CHANDIGARH REGIONAL BENCH  
AT CHANDIMANDIR**

**TA No 94 of 2011  
(Arising out of CS 617 of 2009)**

Surinder Kumar	.....	Petitioners
Vs		
Union of India & Others	.....	Respondents

**ORDER  
08.12.2011**

**Coram : Justice NP Gupta, Judicial Member**

**: Lt Gen (Retd) NS Brar, Administrative Member**

For the Petitioner : Mr DS Nirban, Advocate

For the Respondents : Mr SK Sharma, Sr PC

**LT GEN NS BRAR (RETD)**

This civil suit, filed in the court of Civil Judge (Junior Division), Yamunanagar at Jagadhri, on transfer to this Tribunal is taken up under Section 14 of the Armed Forces Tribunal Act, 2007.

The suit was filed seeking mandatory injunction and directing the defendants to release pension and other retiral benefits under Section 98 of the Navy Pension Rules.

The plaint averments are that the petitioner was enrolled in the Indian Navy as a Boy on 19.01.1971 and was discharged on 24.07.1982 with over 11 years of service. His representations to the authorities for release of pension and other benefits were turned down on the grounds that he had not completed 15 years of service required for pension. Legal notice was also not replied to. The petitioner contends that having rendered more than 11 years service and having been compulsorily retired he was covered under the Special Pension Scheme and is entitled to pension and other benefits.

The suit was contested by the respondents on the grounds that as per Regulation 78 of the Navy Pension Regulations 1964, the minimum

qualifying service for pension is 15 years which the petitioner had not completed. Entitlement to Special Pension under Regulation 98 read with Regulation 95 relates to grant of Special Pension or Gratuity at the discretion of the Government to sailors who are not transferred to the reserve and are discharged in large numbers on reduction of strength of establishment of the Indian Navy. The plaintiff does not fall under this category. It is further stated that the plaintiff was discharged from Naval service after expiry of his initial engagement of 10 years and his unwillingness to continue as per his certificate dated 02.11.1980. The relevant regulations have been re produced.

Heard the learned counsel for the parties.

From the above stated facts it is clear that the petitioner accepted discharge from service after completion of his 10 years initial term of engagement. There is nothing to show that he was placed on the reserve or that his discharge was a consequence of circumstances falling within the ambit of Regulation 98 to entitle him to Special Pension.

In the facts and circumstances of the case we find no merits in the claim of the petitioner. The petition is accordingly dismissed.

**[Justice NP Gupta]**

**[Lt Gen NS Brar (Retd)]**

08.12.2011

RS