

**ARMED FORCES TRIBUNAL, CHANDIGARH REGIONAL BENCH
CIRCUIT BENCH AT SHIMLA**

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OA 1686 of 2011

Jaishi Ram	Petitioner(s)
Vs		
Union of India and others	Respondent(s)

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**ORDER
09.05.2012**

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**Coram: Justice NP Gupta, Judicial Member.
Air Marshal (Retd) SC Mukul, Administrative Member.**

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For the Petitioner (s) : Mr. BS Sehgal, Advocate
For the Respondent(s) : Mr. Gurinderjit Singh, CGC

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Learned counsel for the respondents has filed reply. The same is taken on record.

Heard learned counsel for the parties.

The petitioner, by this petition, claims grant of disability pension, which had been stopped from 04.08.1957. The stand taken in the reply is that it was in view of the disability falling below 20 percent, that the disability pension was stopped.

Learned counsel for the petitioner, however, gives up his claim for disability pension, and confines the petition to the extent of claiming service element only.

In our view, in view of the provisions of Regulation 186 of Pension Regulations, when the disability fell below 20 percent, disability element could be stopped of course, but service element was required to be continued to be paid for life. May be that the petitioner did not complete the requisite amount of service, so as to entitle him to service element, as per the prevailing instructions from time to time, but then, that aspect also stands concluded by the judgment rendered by Hon'ble the Supreme Court

recently on 23.02.2012 , passed in bunch of matters led by **SLP (Civil) No. 20868 of 2009, Union of India and others Vs. Sinchetty Satyanarayan**, wherein the order issued by the Ministry of Defence on 22.02.2012 has been quoted, and the persons discharged with less than minimum qualifying service for pension, as prescribed from time to time, have been held to get service element, including those who retired prior to 1973.

In that view of the matter, the petition is allowed, and the petitioner is held entitled to get service element with effect from 01.01.1973, as given by Hon'ble the Supreme Court in the aforesaid judgment.

The respondents are directed to make necessary calculations, and actual payment to the petitioner, within a period of three months, from the date of receipt of certified copy of this order by learned counsel for the respondents, failing which the amount shall carry interest at the rate of 10 per cent per annum.

(Justice NP Gupta)

[Air Marshal (Retd) SC Mukul]

09.05.2012
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