

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O A Nos.109 of 2011, 121/2012, 123/2012, 169/12 and 177/2012

THURSDAY, THE 7TH DAY OF MARCH, 2013/16TH PHALGUNA, 1934

CORAM:

HON'BLE MR. JUSTICE SHRI KANT TRIPATHI, MEMBER (J)

HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

O.A.No.109 OF 2011

APPLICANT:

1. J.W.O. RAPHY L. ANCHERY, AGED 48 YEARS,
EX NO.680479- R OF INDIAN AIR FORCE, S/O LATE A.A.LONAPPAN,
ANCHERY HOUSE, EAST NADA, OLLUR CHURCH,
OLLUR PO., TRISSUR DISTRICT, KERALA – 680 306.
2. JWO RAJEEV P.V., AGED 45 YEARS,
EX NO.685657 OF INDIAN AIR FORCE,
S/O SHRI K.VISWANATHAN, PANGAVIL HOUSE,
KURREKKADU PO, THIRUVANKULAM (VIA),
ERNAKULAM DIST., KERALA – 682 305.

BY ADV. SRI. V.K.SATHYANATHAN

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI- 110 011..
2. THE AIR OFFICER COMMANDING,
AIR FORCE RECORD OFFICE,
SUBROTO PARK, NEW DELHI – 110 010.
3. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS(PENSION)
OFFICE OF THE PCDA(P), DRAUPADI GHAT,
ALLAHABAD, U.P. – 211 014.
4. THE CHIEF MANAGER,
CENTRALISED PENSION PROCESSING CENTRE (CPPC)
CODE:4477, GANAPATHI KOVIL ROAD, VAZHUTHACAUD,
THIRUVANANTHAPURAM, KERALA – 695 014.

R1 TO R3 BY ADV.SRI. TOJAN J. VATHIKULAM, CENTRAL GOVT. COUNSEL.

R4 BY ADVS. M/S. P.V.SURENDRANATH, BINDUMOL JOSEPH & B.S.SY.AMANTHAK

O.A.No.121 OF 2012

APPLICANT:

1. V.B.NANDAGOPAN, AGED 47 YEARS,
EX.JWO NO.681494 'N', S/O BALAKRISHNAN NAIR,
NANDAVANAM, KAROOR, PAZHOOR PO,
PIRAVOM, ERNAKULAM DISTRICT, KERALA- 686 664.
2. PRASANNA KUMAR R., AGED 49 YEARS,
EX JWO NO.680193 'H', S/O P.G.RAMAN PILLAI,
PRASANNA NIVAS, CHUNGAMANNAM,
MATHUR, PALAKKAD DISTRICT, KERALA . – 678 571.
3. CHANDRASEKHARAN KITTUNNI, AGED 47 YEARS,
EX JWO NO.680191 'R', S/O KITTUNNI CHAMIYAPPAN,
PARVATHI NILAYAM, KALARIKKAL LANE, KOLAZHY POST.,
THRISSUR DISTRICT, KERALA – 680 010.

BY ADV. SRI. V.K.SATHYANATHAN.

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI-110 011.
2. THE AIR OFFICER COMMANDING,
AIR FORCE RECORD OFFICE,
SUBROTO PARK, NEW DELHI – 110 010.
3. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS(PENSION)
OFFICE OF THE PCDA(P), DRAUPADI GHAT,
ALLAHABAD, U.P. – 211 014.
4. THE OFFICER-IN -CHARGE (PENSION/DEFENCE)
HEAD OFFICE SBT, POOJAPPURA,
THIRUVANANTHAPURAM, KERALA – 695 012.

BY ADV. SMT. E.V. MOLY, CENTRAL GOVERNMENT COUNSEL.

O.A.No.123 OF 2012

APPLICANT:

1. RAJEEV G., (EX NO.700785 S. JWO OF INDIAN AIR FORCE)
AGED 46 YEARS, S/O LATE SHRI K.P. GOPINATHAN,
MUTTATHAYYATHU HOUSE (KRISHNA), MUTTOM PO.,
THUMPAMON, PATHANAMTHITTA DIST., KERALA 689 502.
2. VALSARAJAN, KIZHAKKE VALAPPIL (EX. 681 830 L JWO OF INDIAN AIR FORCE)
AGED 48 YEARS, S/O K.C. NARAYANAN,
KV HOUSE, PO-KUTTIATTOOR, VIA MAYYIL,
KANNUR DIST. – 670 602.

BY ADV. SRI. T.R.JAGADEESH.

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI.
2. THE AIR OFFICER COMMANDING,
AIR FORCE RECORD OFFICE,
SUBROTO PARK, NEW DELHI – 110 010.
3. THE PPRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS(PENSION)
OFFICE OF THE PCDA(P), DRAUPADI GHAT,
ALLAHABAD, U.P. – 211 014.
4. DY CDA (AF), SUBROTO PARK, NEW DELHI – 110 010.

BY ADV.SMT./ E.V. MOLY, CENTRAL GOVERNMENT COUNSEL.

O.A.No.169 OF 2012

APPLICANT:

EX-J.W.O.K.V. KUNHIRAMAN, NO.249532, AGED 69 YEARS,
S/O LATE P. RAMAN NAMBIAR, KALIKKOT VEETIL,
NEAR KAPOTH KAVU, ANCHAMPEEDIKA P.O.,
KANNUR DISTRICT, KERALA -670 331

BY ADV. SRI. V.K.SATHYANATHAN

versus

OA. Nos.109/11, 121/12, 123/12,
169/12 & 177/12

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RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI- 110 011..
2. THE AIR OFFICER COMMANDING,
AIR FORCE RECORD OFFICE,
SUBROTO PARK, NEW DELHI – 110 010.
3. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS(PENSION)
OFFICE OF THE PCDA(P), DRAUPADIGHAT,
ALLAHABAD, U.P. – 211 014.
4. THE CHIEF MANAGER,
STATE BANK OF INDIA CODE NO.4477,NG TB ROAD,
CENTRALISED PENSION PROCESSING CENTRE,
GANAPATHY KOVIL ROAD, VAZHUTHAKKAD,
THIRUVANANTHAPURAM - 695 014

BY ADV.SRI. TOJAN J. VATHIKULAM, CENTRAL GOVERNMENT COUNSEL.
R4 BY ADV. SMT. BINDUMOL JOSEPH

O.A.No.177 OF 2012

APPLICANT:

K.K.SATHEESH, EX JWO NO.683477 'R', AGED 48 YEARS,
S/O K.P. KARUNAAKARAN PILLAI,
NELLIYAZHIKAM, PERUMON PO.,
KOLLAM DIST., KERALA – 691 601.

BY ADV. SRI.V.K.SATHYANANTHAN.

Versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI- 110 011.
2. THE AIR OFFICER COMMANDING,
AIR FORCE RECORD OFFICE,
SUBROTO PARK, NEW DELHI – 110 010.
3. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS(PENSION)
OFFICE OF THE PCDA(P), DRAUPADIGHAT,
ALLAHABAD, U.P. – 211 014.

BY ADV. SRI.TOJAN J. VATHIKULAM, CENTRAL GOVT. COUNSEL

ORDER

Shri Kant Tripathi, Member (J):

1. Heard Mr.V.K.Sathyanathan and Mr.T.R.Jagadeesh for the applicants and Mr.Tojan J.Vathikulam and Mrs.E.V.Moly for the respondents, and perused the record.

2. By these Original Applications, the applicants had sought for re-fixation of their pension according to Government Letter dated 9.2.2001, therefore, with the consent of the learned counsel for the parties, all the matters were heard together and are being disposed of by this common order.

3. The learned counsel for the respondents informed that the reply statements have been filed in O A Nos.109 of 2011, 121/2012, and 169/2012 on behalf of the respondents, and the reply statements filed in such cases will be relied upon even in OA Nos.123/2012 and 177/2012, therefore, he would not file any other reply statement.

4. In O.A.No.109 of 2011 there are two applicants, one, Ex.JWO Raphy.L. and the other Ex. JWO, Rajeev P.V.. The applicant No.Raphy.L. Anchery, Ex.JWO No.680479 R, joined the Air Force on 21.5.1982 and

was ultimately promoted to the rank of Junior Warrant Officer on 1.1.2002. He was discharged from the service on completion of his initial term of engagement on 31.5.2002 after rendering 20 years of service. The applicant No.2, Rajeev.P.V., Ex.JWO.No.685657, joined the Air Force on 29.11.1985 and was promoted to the rank of Junior Warrant Officer on 1.6.2005. He was discharged from the service on 30.11.2005 on completion of 20 years of service.

5. In O.A. No.121 of 2012, there are three applicants. Applicant No.1, V.B.Nandagopan, Ex.JWO No.681494 N, joined the Air Force on 27.8.1982 and was promoted to the rank of Junior Warrant Officer on 1.6.2002. He was discharged from the service on 31.8.2002 after rendering 20 years and 5 days of service. The applicant No.2, Prasanna Kumar.R, Ex.JWO No.680193 H, joined the Air Force on 18.5.1982 and was promoted to the rank of Junior Warrant Officer on 1.12.2001. He was discharged from the service on 31.5.2002, after rendering 20 years and 14 days of service. The applicant No.3, Chandrasekharan Kittunni, Ex.JWO No.680191 R, joined the Air Force on 18.5.1982 and was promoted to the rank of Junior Warrant Officer on 1.12.2001. He was discharged from the service after completion of his initial term of engagement on 31.5.2002, after rendering 20 years and 14 days of

service.

6. In O.A.No.123 of 2012, there are two applicants. The applicant No.1, Rajeev. G, Ex.JWO No.700785 S, has joined the Air Force on 19.8.1985 and was promoted to the rank of Junior Warrant Officer on 1.8.2005. He was discharged from the service on 31.8.2005. Though initially he was granted the pension of the rank of Junior Warrant Officer with effect from 1.9.2005, but the pension was reduced to the rank of Sergeant with effect from 1.3.2012 and the excess amount is being recovered from the pension. The applicant No.2, Valsarajan Kizhakke Valappil, Ex.JWO No.681830 L, has joined the Air Force on 26.11.1982 and was promoted to the rank of Junior Warrant Officer on 1.8.2002. He was discharged from the service on 30.11.2002.

7. In O.A.No.169 of 2012, the applicant, K.V.Kunhiraman, Ex.JWO No.249532, has joined the Air Force on 13.9.1962. He was promoted to the rank of Junior Warrant Officer on 1.4.1983. He was discharged from service on 30.9.1983 after rendering 21 years and 18 days of service.

8. In O.A.No.177 of 2012, the applicant, K.K.Satheesh, Ex.JWO No.683477 R, has joined the Air Force on 11.3.1983 and promoted to the acting unpaid rank of Junior Warrant Officer in the month of August 2001, due to want of vacancy in his trade. He was however, later on

promoted to the rank of Junior Warrant Officer on 1.10.2002 and was discharged from service on 31.3.2003 after rendering 20 years and 21 days of service.

9. The aforesaid applicants claimed the pension of the rank of Junior Warrant Officer, but was denied on the ground that they had not rendered the requisite length of service of seven months in the rank of Junior Warrant Officer, so they were sanctioned pension of the rank of Sergeant only. In this connection, the counsel for the applicant submitted that, by the Government Letter dated 9.2.2001, pension of all the applicants was liable to be revised on the basis of the rank/group held by them and the revised pay scales connected thereto even if the rank/group held by them was less than seven months before retirement.

10. Counsel for the respondents on the other hand submitted that the benefit of the aforesaid Government Letter dated 9.2.2001 was not available to the applicants. They could get the pension of the rank of JWO only when they had atleast served seven months in that rank.

11. We do not agree with the submissions made on behalf of the respondents that the aforesaid benefit was not available to post

1.1.1996 retirees. In this connection, it may be mentioned that the Government of India, Ministry of Defence Letter No.1(1)/99/D (Pen/Services) dated 6.6.1999, had provided that with effect from 1.1.1996 pension of all Armed Forces personnel, irrespective of their date of retirement, shall not be less than 50% of the minimum of the revised scale of pay. But the P.C.D.A.(P) has not been granting the benefit to those who had not rendered 10 months service in the rank before the date of retirement. Therefore, the Government reconsidered the matter and extended the benefit irrespective of length of service of the aforesaid ten months, by the Government Letter dated 9.2.2001, which may be reproduced as follows:

"I am directed to refer to this Ministry's letter No.1(1)/99/D(Pen/Sers) dated 7-6-99 as amended wherein the government has decided that w.e.f. 1-1-96 pension of all armed forces pensioners, irrespective of their date of retirement shall not be less than 50% of the minimum of the revised scale of pay introduced w.e.f. 1-1-96. PCDA (P) Allahabad has not been giving the benefit of provisions of pension under the modified parity to these officers who have not held their rank for last 10 months before retirement as per prevailing rules. However there is no such stipulation on the

government order under reference.

The matter has been reconsidered in consultation with O/O CGDA, it is clarified that the 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 scale 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 criteria to earn pension will continue to apply."

12. The ambit and scope of the aforesaid Government Letter was examined by this Bench in O.A.No.135 of 2010 and 73 of 2011 and the Principal Bench in TA. No.339 of 2010 and extended the benefit to retired Junior Warrant Officers who had not rendered the requisite length of service of seven months in the rank of Junior Warrant Officer before the retirement.

13. In view of the aforesaid, the Original Application is allowed. The respondents are directed to re-fix the pension of the applicants in accordance with the Government letter No. No. B/39013/AG/PS-4/(a &

c)131/A/D (Pen/sers) dated 9th February 2001 and pay the entire arrears within four months from today. In case the arrears of pension is not paid within the said period of four months, the unpaid amount will carry a simple interest at the rate of 8% per annum to be paid by the respondents to the applicant.

14. There will be no order as to costs.

15. Issue free copy of the order to both side.

Sd/-
LT. GEN. THOMAS MATHEW,
MEMBER (A)

Sd/-
JUSTICE SHRI KANT TRIPATHI,
MEMBER (J)

DK.

(True copy)

Prl. Private Secretary