

RESERVED
(Court No 2)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 531 of 2024

Saturday, this the 05th day of April, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)

Hon'ble Lt Gen Anil Puri, Member (A)

No. 223415 Flt Sgt (JWO) Ramesh Chandra (Retd), S/o Shri (late) Babu Lal Gupta, 201, Krishna Apartment, 113/104A, Swaroop Nagar, Kanpur Nagar (U.P.)-208002.

.... Applicant

Ld. Counsel for the: **Shri Girish Chandra Tripathi**, Advocate
Applicant

Versus

1. The Union of India, through the Secretary, Ministry of Defence (Air Force), New Delhi-110011.
2. The Chief of Air Staff, Air Headquarters, Vayu Bhawan, New Delhi-110011.
3. Director, Dte of Air Veteran, Subroto Park, New Delhi-110010.
4. The PCDA (P), Draupadighat, Prayagraj (U.P.)-210014.

... Respondents

Ld. Counsel for the : **Ms Amrita Chakraborty**, Advocate
Respondents. Govt Standing Counsel

ORDER

1. Being aggrieved with impugned rejection order dated 19.04.2024 passed by respondent No 4 (Annexure A-1 to O.A.), the applicant has filed this Original Application under Section 14 of the Armed Forces Tribunal Act, 2007, whereby he has sought the following reliefs:-

(a) To set aside the order passed by the respondents vide office of the PCDA (P) letter No. SPARSH/AF/5979/RC/2023 dated 19.04.2024.

(b) To issue/pass an order or direction to the respondents to issue a fresh PPO for restructured and revised pension of the applicant in the rank of JWO (last held by the applicant) with effect from the next date of discharge i.e. 15.12.1973 alongwith @ 12% interest on arrear in light of Hon'ble Tribunal judgments.

(c) To issue/pass an order or direction to the respondents to decide the appeal cum legal notice dated 11.03.2024 preferred by the applicant through Advocate for re-fixation of service pension of the applicant for the rank of JWO (last held by the applicant).

(d) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(e) To allow this original application with cost.

2. Brief facts giving rise to this application are that the applicant was enrolled in the Indian Air Force (IAF) on 16.06.1958. He was discharged from service w.e.f. 14.12.1973 (AN) after completion of 15 years and 180 days service. During the course of service, he was promoted to the rank of Flight Sergeant (Flt Sgt) w.e.f. 08.12.1972 and retained the rank till his discharge date i.e. for a period of 12 months and 06 days. As per rules at that time, the minimum period to earn service pension in the last rank held was 24 months, which later was reduced to 10 months w.e.f. 01.04.1979 vide Govt of India, Min of Def letter dated 22.11.1983, which made applicant eligible for grant of

pension in the rank of Flt Sgt (now JWO). In regard to this, applicant submitted RTI dated 15.01.2024 followed by appeal cum legal notice dated 11.03.2024, to which reply was received from PCDA (P), Allahabad vide letter dated 19.04.2024 (Annexure A-1) denying pension for the rank of Flt Sgt on the ground that he did not hold that rank continuously for 24 months. It is in this perspective that this O.A. has been filed.

3. Learned counsel for the applicant submitted that the applicant is entitled to service pension in the rank of Flt Sgt i.e. JWO w.e.f. 01.01.2006 vide Govt of India, Min of Def policy letter dated 01.04.1979. It was further submitted that the applicant having attained the rank of Flt Sgt continuously for a period of 12 months and 06 days is very much entitled to receive pension in the rank of Flt Sgt w.e.f. 01.01.2006 as the policy letter provides that those who completed 10 months service in the rank last held, are entitled to receive service pension of that rank. He pleaded for grant of pension of Flt Sgt to the applicant w.e.f. 01.01.2006 alongwith arrears.

4. Reliance has been placed by learned counsel for the applicant on the following orders:-

(i) Order dated 30.02.2015 passed by AFT (RB), Chennai in O.A. No. 62 of 2014, **JWO P Gopalakrishnan vs UOI & Ors.**

(ii) Order passed by AFT (PB), New Delhi in O.A. No. 1038 of 2017, **Ex JWO Krishna Moorthy K & Ors vs UOI & Ors** and O.A. No. 1153 of 2016, **Ex JWO Krishna Kumar vs UOI & Ors.**

(iii) Orders dated 03.06.2021 and 20.09.2021 passed by AFT (PB), New Delhi in O.A. No. 993 of 2021, **Ex JWO Ashoke**

Kumar Sen vs UOI & Ors and O.A. No. 208 of 2021, ***Ex JWO Ram Naresh Prasad vs UOI & Ors*** respectively.

5. On the other hand, learned counsel for the respondents submitted that the applicant was enrolled in the IAF on 16.06.1958 and discharged from service w.e.f. 14.12.1973 after completion of 15 years and 180 days qualifying service. He was granted service pension vide PPO No. S/329/74 w.e.f. 15.12.1973 which has been revised from time to time.

6. Learned counsel for the respondents further submitted that the applicant was promoted to the rank of Flt Sgt w.e.f. 08.12.1972 and retained the rank till his discharge date i.e., for a period of 12 months and 06 days. He further submitted that the minimum period to earn service pension in the last rank held was 24 months which was reduced to 10 months vide letter dated 01.04.1979. The learned counsel further submitted that as per the extant policy on the subject the applicant is entitled for revised service pension in the last rank held i.e. Flt Sgt as per PCDA (P), Circular No 568 w.e.f. 01.01.2006.

7. Heard learned counsel for the parties and perused the record.

8. No. 223415 Ex Flt Sgt Ramesh Chandra was enrolled in the IAF on 16.06.1958 and he was discharged from service w.e.f. 14.12.1973 (AN) after completion of 15 years and 180 days qualifying service. During the course of his service, he was promoted to the rank of Flt Sgt i.e. JWO w.e.f. 08.12.1972 and retained the rank for a period of 12 months and 06 days.

8. As per initial policy, there was a condition to hold last rank up to 24 months for grant of pension of that rank but this policy was changed w.e.f. 01.04.1979 vide letter dated 22.11.1983 reducing the holding

period of rank from 24 months to 10 months for grant of pension of that rank. The applicant being retired from service in the year 1973 became eligible for grant of pension in the rank of Flt Sgt, which he held for a period of 12 months and 06 days.

9. The respondents while filing counter affidavit have categorically mentioned in Para 3 that as per extant policy on the subject, the applicant is entitled for grant of Flt Sgt pension w.e.f. 01.01.2006. For convenience sake, extract of Para 3 of the counter affidavit, being relevant, is reproduced as under:-

“3. x x x x x x. As per PCDA (P) Allahabad Circular No. 568, applicant is entitled for revised service pension in the last rank held i.e., Flt Sgt with effect from 01.01.2006.”

10. Thus, in view of the fact that the applicant has retained Flt Sgt rank for a period of more than 12 months, he is entitled to be granted service pension of Flt Sgt rank w.e.f. 01.01.2006 in view of changed policy on the subject. Further, since the respondents have also conceded entitlement of service pension to the applicant in the rank of Flt Sgt, he is entitled to grant of pension of Flt Sgt w.e.f. 01.01.2006.

11. In view of the above, O.A. is **partly allowed**. Impugned order dated 19.04.2024 (Annexure A-1 to O.A.) is quashed. The respondents are directed to grant service pension to the applicant in the rank of Flt Sgt w.e.f. 01.01.2006, but due to law of limitation the applicant is entitled to receive service pension of Flt Sgt w.e.f. three years preceding the date of filing this O.A. which was filed on 21.05.2024. Respondents are further directed to grant pension to the applicant in the rank of Flt Sgt alongwith

arrears within a period of four months on receipt of a certified copy of this order. Default will invite interest @ 8% p.a.

12. No order as to costs.

13. Miscellaneous application(s), if any, shall stand disposed off.

(Lt Gen Anil Puri)
Member (A)

Dated : 05.04.2025
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(Justice Anil Kumar)
Member (J)

RESERVED(Court No 2)

Form No. 4

{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

O.A. No. 531 of 2024

Flt Sgt (JWO) Ramesh Chandra (Retd)

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Ors

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="464 1723 602 1749"><u>07.04.2025</u></p> <p data-bbox="464 1755 984 1784"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="464 1790 911 1819"><u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <ol data-bbox="464 1884 1430 2032" style="list-style-type: none"> <li data-bbox="464 1884 805 1913">1. Order pronounced. <li data-bbox="464 1943 1057 1972">2. O.A. No. 531 of 2024 is partly allowed. <li data-bbox="464 2002 1430 2032">3. For orders, see our judgment and order passed on separate sheets. <p data-bbox="477 2179 680 2247">(Lt Gen Anil Puri) Member (A)</p> <p data-bbox="464 2249 526 2265"><i>rathore</i></p> <p data-bbox="849 2179 1084 2247">(Justice Anil Kumar) Member (J)</p>