

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**ORIGINAL APPLICATION No. 22 of 2018**

Monday, this the 03rd day of January, 2022

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Jeet Singh (Ex-294277 AC1) son of Sri Bahadur Singh, R/o Village & Post Office-Sarkada Kamal, District-Amroha.

..... Applicant

Learned counsel for the Applicant : **Shri Om Prakash Kushwaha**, Advocate.
(Not present)

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Pension Officer, Pension Department, Air Force Head Quarter, Subroto Park, New Delhi.
3. Director, Directorate of Air Veterans, Subroto Park, New Delhi.

.....Respondents

Learned counsel for the Respondents. : **Shri Ashish Kumar Singh**, Advocate
Central Govt. Counsel

ORDER (Oral)

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

(a) *Set aside the impugned order No Air HQ/99798/294277/3/SP/DAV dated 22.04.2016 passed by respondent No 3, which is contained as Annexure No 1 to this O.A.*

(b) *Issue order or direction to the respondents to pay the regular pension and also pay the arrears of pension w.e.f. 01.08.1983 alongwith interest @ 18% till date of actual payment in favour of applicant.*

(c) *Issue, any other order or direction deemed just and equitable under the circumstances of the case in favour of applicant.*

(d) *Allow the original application with consequential benefits.*

2. This is an old case of an airman whose original service records have been weeded out after retention of stipulated period of 25 years. As per Long Roll available on record, he was enrolled in the Indian Air Force (IAF) on 15.11.1966 for a term of 15 years regular and 06 years as reserve liability. He was discharged from service at his own request on 30.11.1975 after rendering 09 years and 16 days qualifying service. Applicant is stated to have written several letters to the Air Force Authorities for grant of pension. One of his letter dated 16.03.2016 was replied by Directorate of Air Veterans, Subroto Park, New Delhi vide letter dated Air HQ/99798/98/94277/3/SP/DAV dated 22.04.2016 (Annexure No 1) denying him

pension which was challenged in the Hon'ble High Court of Judicature at Allahabad by filing Writ Petition No 26592 of 2016. The said petition was dismissed vide order dated 31.05.2016 directing the applicant to approach appropriate forum. This O.A. has been filed by the applicant for grant of service pension.

3. The applicant pleaded that since after discharge he served in the Indian Air Force office at Agra up to 1983, thus he has completed 15 years of pensionable service. He further pleaded that Vayu Sena Abhilekh Karyalaya, New Delhi has sent medal vide their letter dated 14.07.1983 which also indicates that he has completed more than 15 years of service to earn service pension.

4. On the other hand, learned counsel for the respondents contended that applicant's service documents have been destroyed after mandatory retention period of 25 years and only Long Roll is available with minimal information. He further submitted that applicant was discharged from service on his own request when he failed to attain the rank of Corporal within 09 years of engagement. Learned counsel for the respondents concluded that since applicant has not served for 15 years in the IAF, he is not entitled to service pension. He pleaded for dismissal of O.A.

5. We have heard learned counsel for the respondents and perused the material placed on record.

6. The record reveals that applicant's original service documents have been destroyed after stipulated retention period of 25 Years, in accordance with Section 6, Chapter XVIII of Regulation 1026 of Regulations for the Air Force and only Long Roll is available on record. As per long roll applicant did not serve for 15 years which is minimum period for earning service pension. The long roll also indicates that applicant could not attain the rank of Corporal within 09 years of service which is a pre-requisite criteria to complete 15 years pensionable service.

7. We have perused the Air Force Instruction No. 12/S/48 which governs terms and conditions of airmen and Corrigendum 7 dated 29.03.1969 to the ibid instruction and we find that as per AFI(I)12/S/48) issued by Government of India dated 24.7.1948, amended by AFI(I)/12/S/48 dated 13.4.1957, airmen were being engaged for 09 years regular service and 06 years in the reserve liability, but applicant was not transferred to reserve service after completion of his regular engagement of 09 years. We have also observed that with effect from 5.8.1966, initial period of engagement of airmen was enhanced to 15 years regular service vide letter No. Air HQ/23997/3/PP&R/6800/D (A-III) issued by Government of

India, Ministry of Defence, dated 28.7.1966. Accordingly, it was amended vide Corrigendum 7 to AFI 12/S/48 dated 29.3.1969. Vide letter No. Air HQ/40252/2/PA-1 issued by Government of India, MoD dated 7.9.1966, there was a provision that airmen serving initial engagement period of 09 years may be allowed to contract for 15 years from the date of enrolment subject to condition that if they fail to attain the rank of Corporal within 09 years, they will be discharged without transferring to reserve service. The terms and conditions with regard to reserve liability and reserve service are governed by the Reserve and Auxiliary Air Forces Act, 1952. The applicant's contention, that he had completed 09 years regular service as per his terms of engagement and after this period he should have been transferred to reserve establishment rather than discharging him from service, is incorrect on the ground that firstly, he could not pass promotion test to become a Corporal within 09 years of service, and secondly he applied for discharge from service. The applicant was also granted service gratuity and other benefits payable for the services which he rendered and therefore, he cannot get any pensionary benefits since he had accepted the grant of gratuity and other benefits at the time of his discharge. As per Regulation-121 of Pension Regulations for the Air Force, 1961 (Part-I), the minimum qualifying service for earning service pension is 15 years of regular service. Further, as per Regulation-136 of Pension

