

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 565 of 2021**Tuesday, this the 4<sup>th</sup> day of January, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**8364482 Ex WO Ram Sakal Singh  
S/o Late Chander Deo Singh  
R/o Village – Pipra Dawan, Post – Lar Road,  
District – Deoria (UP)

..... Applicant

Ld. Counsel for the Applicant: **Shri Vinay Pandey**, Advocate

Versus

1. Union of India, through Chief of Army Staff, Army Headquarters, DHQ PO, New Delhi-110011.
2. Director Army Postal Service, Army Headquarters, DHQ PO, New Delhi-110011.
3. Office-in-charge, Army Postal Service Records, Kamptee (Madhya Pradesh) Post Bag No. 19, Pin – 440011.
4. The Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad (UP)-211014.
5. Record Officer, CCDA, Pension (P), Allahabad.

..... Respondents

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**,  
Central Govt Counsel.**ORDER**

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

- “i. Issue an order or direction in the nature of mandamus commanding the respondents to regularized/provide the

pension to applicant through Army as he is entitled for military pension of Subedar Rank.

- ii. Issue an order or direction in the nature of mandamus commanding the respondents to computing the pension of applicant as per last drawn Military Service Pay and release all consequential benefits and arrears of pension from the date of retirement of applicant with 18% interest on the same.
- iii. Issue any other order or direction as deem fit by this Hon'ble Court in the present facts and circumstances of the case.
- iv. Award the cost of original Application in favour of applicant."

2. The factual matrix on record is that the applicant was initially appointed in the Post and Telegraph department in the year 1962 and thereafter, he was enrolled in Army Postal Service (APS) on 06.11.1968 on deputation on terms of engagement of 18 months. The terms and conditions of Postal and Telegraph personnel on deputation to APS has been laid down as per Govt. of India, Ministry of Defence letter dated 19.03.1985. The applicant was discharged from service w.e.f. 31.07.1996 (AN) in the rank of Warrant Officer (WO) after rendering 27 years, 8 months and 26 days of service. The applicant represented his case to the higher competent authorities vide letters dated 07.06.2008 and 20.11.2012 but the applicant was denied informing that he is only eligible for getting pension from parent department i.e. civil side and not from Army. Being aggrieved, the applicant has filed present Original Application for providing pension from Army alongwith benefit of Military Service Pay (MSP).

3. Learned counsel for the applicant submitted that applicant was enrolled in Army Postal Service (APS) on 06.11.1968 on deputation from Post and Telegraph department. The terms and conditions of Postal and Telegraph personnel on deputation to APS have been laid down as per Govt. of India, Ministry of Defence letter dated 19.03.1985. The applicant was discharged from service w.e.f. 31.07.1996 (AN) in the rank of Warrant Officer (WO) after rendering 27 years, 8 months and 26 days of service. It is provided in para 9(d) of circular dated 19.03.1985 that 'An individual promoted in the APS to a higher appointment will receive pay of appointment as given in para 6 above. The pay on promotion will be fixed under normal rules'. As per Discharge Certificate, applicant is an ex-serviceman and therefore, as per Circular dated 19.03.1985, all service conditions as promotion, pay scale and other service conditions of the personnel on deputation to Army Postal Service are same as regular Army man. Hence, ex-serviceman of APS should not be treated differently than regular Army ex-serviceman. It is against the spirit of constitution as it is promised equality in Article 14 of the Constitution of India as fundamental right.

4. Learned counsel for the applicant further submitted that at the time of retirement, applicant was Higher Selection Grade-II (HSG-II) corresponding military rank of Subedar. As per revised pension Subedar of regular Army was drawing 11789/- as on 01.07.2009 but the applicant is only getting 7031/-, hence, difference of Rs. 4758/-. The applicant represented his case to the higher competent authorities vide letters dated 07.06.2008 and 20.11.2012 but the

applicant was denied informing that he is only eligible for getting pension from parent department i.e. civil side and not from Army. He also submitted that 6<sup>th</sup> CPC recommended MSP to all ranks of defence services for the rigours of service vide Special Army Instruction 1/S/2008 but the applicant was denied stating that APS personnel who come on deputation, irrespective of length of service are not eligible for MSP. Learned counsel placed reliance on the judgment of this Tribunal in OA No. 148 of 2010, ***Lt Col Om Datt Sharma (Retd) vs. Union of India***, decided on 20.10.2010. He pleaded for providing same benefit to the applicant by granting pension from Army side including MSP.

5. Learned counsel for the respondents submitted that Post & Telegraph (P&T) deputationists are being granted service pension from Department of posts only. Since, the applicant was enrolled in APS as a deputationist from Department of Posts and discharged from Army service on 31.07.1996 (AN) voluntarily without joining his civil parent department, he is entitled service pension from civil side only. He further submitted that as per IHQ of MoD (Army) letter dated 08.02.1995, Warrant Officers (WO) are treated at par with the JCO for the purpose of messing, accommodation and travel concession only and not for pension purpose. Since, the applicant being deputationist from Department of Posts to APS is governed by CCS (CCA) Rules, 1965, he is not eligible for service pension from Army side as he is getting pension from his parent department i.e. civil side. He pleaded for dismissal of O.A.

6. We have heard learned counsel for the parties and have perused the record.

7. Before advertng to rival submissions of learned counsel of both sides, it is pertinent to mention that judgment relied upon by the applicant in Para 4 referred above is not relevant in the present case being based on different facts and circumstances and therefore, applicant cannot be given the benefit of aforesaid judgment.

8. We find that applicant has served in APS as a deputationist from Department of Posts and after discharge from Army, he is getting pension from Department of Posts. Hence, we are of the view that prayer of the applicant for providing pension through Army equal to Subedar rank alongwith benefit of MSP is illogical and irrelevant as per rules being a deputationist from Department of Posts. The prayer of the applicant has rightly been rejected by the respondents which need no interference.

9. In view of above, O.A. has no merit, deserves to be dismissed and is accordingly **dismissed**.

10. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: January, 2022

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