

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****COURT NO. 1****O.A. No. 211 of 2015****Tuesday, this the 18<sup>th</sup> day of July, 2017****"Hon'ble Mr. Justice D.P.Singh, Judicial Member  
Hon'ble Air Marshal Anil Chopra, Administrative Member"**

Bhola Dutt Singh, son of Bhagwati Singh resident of Dharam Kanta,  
Mankapur, Post Office Bhitaura, District Gonda, U.P. **Applicant**

**Ld. Counsel appeared  
for the Applicant****- Wg Cdr (Retd) A.K. Singh**

Versus

1. Union of India through the Secretary, Ministry of Defence New Delhi.
2. Chief of Army Staff Integrated Head Quarter Ministry of Defence (Army) New Delhi.
3. The Records, The Rajput Regiment, Fatehgarh, U.P. PIN - 900427
4. No. 113 Inf. Bn. (T.A.)
5. PCDA (P) Allahabad

**.....Respondents****Ld. Counsel appeared  
for the Respondents****- Shri Namit Sharma,  
Central Govt. Standing Counsel.****Assisted by OIC Legal Cell****- Maj Salen Xaxa.**

**ORDER (Oral)**

1. Present Application under section 14 of the Armed Forces Tribunal Act 2007 has been preferred assailing the orders declining grant of disability pension.
2. We have heard learned counsel for the Applicant Wg Cdr (Retd) A.K. Singh as also Shri Namit Sharma, learned counsel for the respondents, assisted by Maj Salen Xaxa, OIC Legal Cell and perused the record.
3. Brief of the facts are that the Applicant was enrolled in the Indian Army on 30.01.1963 and was discharged from service on 19.08.1985 under Army Rule 13(3) (i) (b) on compassionate grounds on his own request.
4. Without delving into exhaustive details, it would suffice to say that the controversy involved in the instant case pertains to the claim for counting of the period of service which he had rendered in Territorial Army wherein he had served from 24.07.1960 to 01.09.1961 (one year one month and seven days) before joining the Indian Army. In connection with the above, he submitted a representation with the prayer for counting the aforesaid period of service by relying on Army Regulation 126.
5. The contention of the learned counsel for the respondents is that according to Army Service Pension

Regulation 126, it is incumbent on such person to disclose the previous service rendered in Territorial Army which may be counted for payment of pensionary benefits. He also drew attention to Notification dated 07.07.1969 whereby Regulation 126 B was also added which postulates that at the time of enrolment in the Army, the incumbent shall declare with required material pertaining to previous service in the Territorial Army.

6. On the other hand learned counsel for the Applicant canvassed that since the Applicant had joined the Indian Army on 30.02.1963, there was no occasion for him to declare it. Countering the above submission, learned counsel for the respondents contends that the claim for inclusion of the services rendered in Territorial Army for pensionary benefits was raised after 7 years from the date of superannuation.

7. A perusal of the amendment brought about in Pension Regulation 126 B shows that it has been given effect to from 1969. It does not seem to have any retrospective effect in nature. Accordingly, it seems to apply to those incumbents who have joined the Indian Army after rendering service in Territorial Army from the date of issuance of Notification i.e from the year 1969 (supra).

8. There is other limb of argument advanced by learned counsel for the parties. It is not disputed that the Applicant had raised the plea with regard to counting of service in the Territorial Army after retirement and that too after issuance of the PPO, rather, after seven years of service. Once the Applicant has spent seven years of period after retirement and that too without any complaint, and accepted the pension, then at this stage, the Applicant does not seem to be entitled to raise the issue with regard to counting of service rendered in the Territorial Army, more-so, when the statutory provision seems to be prospective in nature added as Regulation no 126 B.

9. There is one more reason why we are not inclined to grant the relief. Since the Applicant has raised the issue in question after seven years of retirement when everything had already been settled and he was leading a peaceful life, all of a sudden, he woke up and realised that he should claim addition of two years of service rendered by him in Territorial Army for pensionary benefits.

10. A person, who kept mum and slept over the matter for seven long years and raised the issue after inordinate delay, would be deemed to lose his right which would be barred by principles of estoppels because of his own conduct. In the facts and circumstances of the case, we

have no hesitation to say that a person who slept over his right for seven long years, may not be permitted to raise the issue after inordinate delay particularly when no justification has been brought on record why the Applicant kept sleeping over the matter for seven long years to claim addition of two years of service rendered by him in the Territorial Army for the purposes of pensionary benefits.

11. Our attention has also been invited to provisions contained in Regulation 126 A, which seems to be applicable with effect from 1961, but that too is subject to fulfilment of certain conditions and admittedly, the Applicant has not fulfilled those conditions required by the Regulation. Hence, on this count also, the O.A fails and calls for no interference.

12. As a result of foregoing discussion, the petition lacks merit as Applicant has failed to make out a case for interference for the purposes of grant of relief claimed by it.

13. In the result, the O.A being devoid of merit, is dismissed.

**(Air Marshal Anil Chopra)**  
**Member (A)**

**(Justice D.P. Singh)**  
**Member (J)**

**Dated : July, 2017**

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