

Court No. 1 (E Court)**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 213 of 2020.**

Tuesday, this the 26th day of April, 2022

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Captain Ramdeo Singh (Retd) S/o Late Gajraj Singh R/o House No. 299, Hemant Vihar, Barra-2, Sector-Z-I, Kanpur Nagar-208027.

..... Applicant

Ld. Counsel for the Applicant : **Shri SG Singh**, Advocate
: **Mohd. Shariq Khan**, Advocate
: **Shri Anand Yadav**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi-110011.
3. Addl. Dte General of Manpower (Policy & Planning)/MP5(b) Adjutant General’s Branch Integrated Head Quarters of Ministry of Defence (Army), Wing No.3, Ground Floor, West Block-III, PK Puram, New Delhi-66.
4. The DTE General, Ministry of Personnel Grievances and Pensions, Department of pension and Pensioner’s Welfare, 3rd floor, Lok Nayak Bhawan, Khan Market, New Delhi.
5. The Senior Accounts Officer, NOGI/M/Misc/VIII Office of PCDA (P).

.....Respondents

Ld. Counsel for the Respondents. : **Shri Anurag Mishra**, Advocate
Central Govt. Counsel

ORDER

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

(a) Issue/pass an order or directions or appropriate nature whereby commanding the respondents to produce the record in original and thereafter quash the impugned order dated 07.07.2017 whereby rejecting the claim of the applicant for PBOR Pension.

(b) Issue/Pass an order or direction of appropriate nature whereby commanding the respondents to grant PBOR pension to the applicant forthwith from date of retirement that 29.07.1975

(c) Issue/Pass an order or direction of appropriate nature whereby commanding the respondents to decide the representations of the applicant.

(d) Allow the application with all consequential benefits with exemplary cost.

2. Brief facts of the case are that the applicant was enrolled in the Indian Navy on 12.12.1962 and has served as Sailor up to 14.03.1970. Thereafter, he was granted Short Service Regular Commission (SSRC) in the Army w.e.f. 15.03.1970. By means of this O.A. the applicant claims service pension of PBOR and other benefits from the date of retirement by counting his entire service of 12 years, 07 months and 02 days which includes SSRC service of 05 years, 04 months and 14 days. Against denial of PBOR pension, applicant had filed O.A. No. 1224 of 2011 before AFT (RB) Chandigarh (CB) at Shimla for grant of pension of PBOR quoting that he had 23 years of qualifying service. This O.A. was dismissed vide order dated 21.03.2012 based on rule position and

case law cited by the respondents. Now the applicant has filed this O.A. again for grant of PBOR pension.

3. Learned counsel for the applicant submitted that the applicant had taken active part in 1962 and 1965 wars and has served more than 12 years as PBOR and SSRC. He further submitted that despite serving for more than 12 years the claim of the applicant for PBOR pension was denied in highly illegal and malafide manner. His other submission is that petition dated 17.06.2017 was rejected vide order dated 07.07.2017 arbitrarily. In support of his contention learned counsel for the applicant has relied upon order dated 20.05.2010 passed by AFT, Chandigarh (CB) at Shimla in CWP No 20129 of 2003 (T.A. No. 365 of 2010), ***Shri Ramzan Mohd vs Union of India & Ors.*** He pleaded for grant of PBOR pension to the applicant keeping in view of aforesaid pronouncement.

4. On the other hand, learned counsel for the respondents submitted that the present O.A. is not maintainable as applicant's O.A. No 1224 of 2011 for similar cause of action has already been rejected vide order dated 21.03.2012 (Annexure A-1). Further submission of learned counsel for the respondents is that the applicant has only 10 years, 02 months and 16 days service at his credit which is insufficient for grant of PBOR pension. He pleaded for dismissal of O.A.

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

6. Applicant Capt Ramdeo Singh was enrolled in the Indian Navy on 12.12.1962 and he was granted SSRC in the Indian Army w.e.f. 15.03.1970. He was discharged from service in the rank of Captain on 29.07.1975 having put in 12 years, 07 months and 02 days combined service as PBOR and SSRC. He had filed O.A. No. 1224 of 2011 for grant of PBOR pension in AFT (RB) Chandigarh which was dismissed vide order dated 21.03.2012.

7. We find that O.A. for similar cause of action has already been dismissed vide order dated 21.03.2012, therefore, the present O.A. is not maintainable. However, on request made by learned counsel for the applicant we proceed to decide the O.A. on merit.

8. Short service commissioned officers and Emergency commissioned officers are allowed service pension on completion of 12 years qualifying service as per SAI 6/S/65. As per Pension Rules and MoD (Army) letter dated 09.01.1990, service was counted at $\frac{1}{2}$ in terms of Regulation 26 (b) (ii) of Pension Regulations for those who retired prior to 01 July 1966, $\frac{2}{3}^{\text{rd}}$ for those who retired on or after 01 July 1966 and in full w.e.f. 01 January 1986. As per aforementioned ruling the applicant served in the Indian Navy as a Sailor for 07 years, 03 months and 02 days and thereafter, served in the Indian Army as a Short Service Commissioned Officer up to 28.07.1975 (date of discharge- 29.07.1975). Thus, keeping in view that he retired on 29.07.1975, his qualifying service in Navy comes to 04 years, 10 months and 02 days ($\frac{2}{3}^{\text{rd}}$ of 07 years, 03 months and 02 days), meaning thereby that he is having 10 years, 02 months and 16 days

qualifying service at his credit which is insufficient for grant of PBOR pension. We make it clear that in ***Ramzan Mohammad*** (supra) the petitioner was having 12 years qualifying service and therefore, he was granted PBOR pension.

9. In view of the above, the O.A. is dismissed on two counts i.e. being not maintainable as well as on merit.

10. No order as to costs.

11. Miscellaneous applications, pending if any, stand dismissed.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 26.04.2022

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