

Reserved
Court No.3
(Sl. No.16)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 219 of 2021

Wednesday, this the 19th day of Jul, 2023

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

Hon'ble Maj Gen Sanjay Singh, Member (A)

Siri Ram son of Siri Ram Ratan, resident of Alampur, Sarai Parsada,
District-Barabanki, Uttar Pradesh.

.....Applicant

Ld. Counsel for : **Shri Vivek Chandra**, Advocate
Applicant

Versus

1. Union of India, through its Secretary, Ministry of Defence,
Government of India, New Delhi.
2. Principal Controller of Defence Accounts (Pensions), Draupadi
Ghat, Allahabad (UP).
3. Senior Records Officer, A.M.C. Records, Lucknow.
4. District Solder Welfare and Rehabilitation Officer, Barabanki.
5. Senior Treasury officer, Barabanki.
6. Bank of India, Branch Barabanki, Mishra Market Main Road,
Barabanki (UP), through Branch Manager.

...Respondents

Ld. Counsel for the : **Shri Yogesh Kesarwani**, Advocate
Respondents
Central Govt Counsel
Shri Nitin Srivastava, Advocate
(Bank Respondents)

ORDER

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 whereby the applicant has sought the following reliefs:-

(a) The Hon'ble Tribunal may graciously be pleased to direct the respondents/concerned authorities to release the arrear of pension for the period of 03.04.1998 to 31.12.2009 in favour of the petitioner.

(b) Direct the respondent No 3 to take decision in respect of the arrear of pension of petitioner for the period of 03.04.1998 to 31.12.2009, in pursuance of the applications/representations moved by the applicant, contained as Annexure No 5 to this Original Application, within the prescribed time period as fixed by this Hon'ble Tribunal, in the interest of justice.

(c) Any other suitable order or direction which is necessary for the ends of justice may also be passed by this Tribunal in favour of the applicant.

2. Brief facts of the case are that the applicant was enrolled in the Army on 31.01.1963 and he was discharged from service on 31.01.1978 (AN) on attaining the age of superannuation. After discharge from service he was granted pensionary benefits vide PPO No. 4552/78 which he received through Treasury Office Barabanki till May, 1998 (Annexure 2) and thereafter, his PPO was transferred to Bank of India, Branch Barabanki, Mishra Market, Barabanki for payment of further pension. In the year 1998, it is stated that applicant became seriously ill and he could not submit his life certificate which resulted in stoppage of his pension. When he recovered from illness, he submitted representations to various authorities for grant of pension which was stopped due to non receipt of life certificate to which Bank of India, Barabanki vide letter dated 22.11.2011 (Annexure 2) asked

certain documents to re-start the pension which he submitted vide letter dated 16.05.2012 (Annexure-3). On receipt of requisite documents bank re-started paying pension and the same is being paid to him regularly, but arrears of pension for the period 03.04.1998 to 31.12.2009 have not been paid to the applicant. In regard to this applicant submitted applications/representations dated 06.06.2016, 17.05.2017, 11.02.2018, 09.07.2019 and 31.10.2020 but when no tangible result was achieved, this O.A. has been filed.

3. Submission of learned counsel for the applicant is that applicant after retirement from service was in receipt of service pension w.e.f. 01.02.1978 vide PPO No. 4552/78 and the pension was being disbursed through Treasury Office, Barabanki. It was further submitted that applicant received his pension up to the month of May 1998 and thereafter, his PPO was transferred to Bank of India, Barabanki.

4. Further submission of learned counsel for the applicant is that in the month of April 1998 the applicant became seriously ill. He was continuously under treatment with Dr. LK Shukla, Barabanki. It was further submitted that due to prolonged illness applicant could not submit his life certificate before the concerned authority with the result his pension was stopped which was restored w.e.f. 01.01.2010. His submission is that applicant be paid pension for the period 03.04.1998 to 31.12.2009.

5. On the other hand, learned counsel for the respondents submitted that as per records maintained by AMC Records, correct name of the pensioner is 'Siri Ram' whereas his name has been

mentioned as Shriram which is incorrect. We have perused the record and corrected name of the pensioner in this order accordingly.

6. Learned counsel for the respondents further submitted that the applicant was granted service pension w.e.f. 01.02.1978 vide PPO No. S/4552/78. Respondents further submission is that had the applicant been ill and was unable to furnish life certificate for payment of pension, there is a provision in Para 80 (a) of Pension Regulations for the Army, 2008 (Part-II) which says 'a pensioner residing in India may draw his pension through a duly authorized agent (including a bank), who shall execute a bond to refund over payments and produce at least once in a year a life certificate signed by any of the persons authorized to sign such certificate. Such pensioners are exempted from personal identification by the Pension Disbursing Authority both at the time of first drawl of pension as also from annual identification'.

7. Learned counsel for the respondents further submitted that Pension Disbursing Authority is solely responsible for payment of regular pension to the pensioner and if a pensioner has not drawn his pension continuously for the last three years, it shall be regulated by Para 89 of Pension Regulations for the Army, 2008 (Part-II). It was further submitted that in case a pension remains undrawn for more than three years, pension shall be resumed after getting sanction of Principal Controller of Defence Accounts (Pensions). Learned counsel for the respondents has however, admitted that pension for the period from 03.04.1998 to 31.12.2009 has not been paid to the applicant due to non-submission of life certificate.

8. Heard Shri Vivek Chandra, learned counsel for the applicant and Shri Yogesh Kesarwani, learned counsel for the respondents and perused the record.

9. No. 6812933N Ex Sep Siri Ram was enrolled in the Army Medical Corps (AMC) on 31.01.1963 and on completion of terms of engagement he was discharged from service w.e.f. 31.12.1978 (AN). Accordingly, he was granted service pension vide PPO No. S/4552/78. Applicant has received his pension up to May, 1998 but thereafter, due to non submission of life certificate his pension was withheld for the period June, 1998 to December, 2009. Applicant has stated that due to his illness, he could not submit his life certificate.

10. The Record shows (Annexure-I) that applicant was paid his pension through Treasury Office, Barabanki up to May, 1998 and thereafter his PPO was transferred to Bank of India, Barabanki on 29.06.1998. In response to his representation, PCDA (P), Prayagraj vide letter dated 22.11.2011 informed Bank of India, Barabanki with copy endorsed to applicant for submission of certain documents for resumption of service pension which was withheld due to non receipt of life certificate.

11. Annexure-3 is the letter of Bank of India, Barabanki which shows that the requisite documents were submitted to PCDA (P), Prayagraj on 16.05.2012. Annexure-1 is the certificate issued by Chief Treasury Officer, Barabanki which shows that the applicant has been paid pension up to the month of May, 1998 and after that his PPO was transferred to Bank of India, Barabanki.

12. Chief Treasury Officer, Barabanki i.e. respondent No. 5 has filed counter affidavit stating therein that applicant has been paid pension through their office up to May, 1998 and Bank of India, Barabanki has to disburse pension to the applicant w.e.f. June, 1998.

13. Chief Manager, Bank of India, Barabanki i.e. respondent No. 6 has also filed counter affidavit on 09.11.2022 along with arrear calculation report for the period from May, 1998 to July, 2015 as per which Rs 7,74,018/- are due to be paid to the applicant on account of arrears of pension. We find that the applicant is in receipt of his pension w.e.f. 01.01.2010 onwards but the arrears from May, 1998 to December, 2009 have not been paid to him.

14. Since the arrears of pension exceeds Rs 10,000/- and it has also become time barred, the same is required to be dealt with Para 89 (a) of Pension Regulations for the Army, 2008 (Part-I), which for convenience sake is reproduced as under:-

“UNDRAWN PENSION AND ARREARS

89. (a) Unless the Government by general or special orders direct otherwise, a pension remaining undrawn for more than a year, from Pension Disbursing Authorities other than Defence Pension Disbursing Office shall cease to be payable by Pension Disbursing Authority. Defence Pension Disbursing Office may pay pension remaining undrawn up to a period of 3 years, if he is satisfied with the claimants' explanation for the delay. If pensioner afterwards appears or claim is presented on his behalf, the Pension Disbursing Authority may resume the payment of monthly pension accruing thereafter, but the arrears can be paid-

(i) By the Pension Disabusing Authority himself if the amount of arrears does not exceed Rs. 10000/-provided that arrear do not represent pension to be paid for the first time.

(ii) With the previous sanction of the Principal Controller of Defence Accounts (Pension) if the arrear exceeds Rs. 10000/-

-Provided that if, in any case, a pension remain undrawn for three years or more, neither monthly pension payment shall be resumed, nor arrears could be paid without the authority of Principal

Controller of Defence Accounts (Pension) be may be readmitted to the pensions establishment if he accounts for his failure to draw the pension to the satisfaction of the Principal Controller of Defence Accounts (Pensions), who may at his discretion, grant or withhold the arrears of pension or any portion thereof.

(b) A gratuity payment order shall remain enforce for one year only and no such order shall be retained by a Pension Disbursing Authority, if payment has not been made on it within a year of issue."

15. Thus, it is clear that the amount of arrear being exceeding Rs 10,000/- and also three years being passed, it is the responsibility of PCDA (P), Prayagraj to accord time barred sanction for grant of pension arrears for which required documents have already been submitted through Bank of India, Barabanki vide letter dated 16.05.2012.

16. In view of the above O.A. is **allowed**.

17. PCDA (P), Prayagraj is directed to consider applicant's claim for grant of arrears of pension for the period 03.04.1998 to 31.12.2009 after granting time barred sanction within a period of four months on receipt of a certified copy of this order. Default will invite interest @ 8% p.a.

17. No order as to costs.

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

(Maj Gen Sanjay Singh)
Member (A)

Dated:07.2023

rathore

(Justice Anil Kumar)
Member (J)