

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 372 of 2019

Monday this the 15nd day of March, 2021

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

No. 6617339 Ex Sep (Reservist) Abdul Aziz (ASC MT Wing), S/O Ramjan Ahmad, R/O Vill-Dhodhiyahi, Post-Korai, Distt-Fatehpur, U.P.

.... Applicant

Ld. Counsel for the: **Shri Pankaj Kumar Shukla, Advocate**
Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of The Army Staff, South Block, New Delhi-110011.
3. The Officer-in-Charge, ASC Records (South), Bangalore-560007.
4. The PCDA (P), Draupadi Ghat, Allahabad.

... Respondents

Ld. Counsel for the: **Dr. Shailendra Sharma Atal, Advocate**
Respondents. Sr. Govt Standing Counsel.

ORDER

1. Heard Shri Pankaj Kumar Shukla, learned counsel for the applicant and Dr. Shailendra Shukla Atal, learned counsel for the respondents.

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

(i) To issue/pass an order to set-aside/quash the letter dated 14.08.2018 passed by respondents.

(ii) To issue/pass an order or directions to the respondents for grant of Regular Service Pension (Reservist Army Pension) and grant all the retiral benefits and sanction entire due amount of regular pension to the applicant alongwith 12% interest from date of discharge i.e. 01.07.1983.

(iii) to issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

3. Brief facts of the case are that as per rules prevalent at the time of enrolment applicant was enrolled in the Indian Army 04.06.1963 with terms of engagement of 10 years in colour and 10 years in reserve service. On completion of colour service period applicant was transferred to reserve establishment w.e.f. 15.11.1973. Further, on completion of his reserve service he was discharged from service w.e.f. 30.06.1983 (AN) under Rule 13 (3) (iii) (i) of Army Rules, 1954. He was granted revised reservist pension which he is in receipt of. Applicant has claimed for regular service pension to reservist w.e.f. 01.07.1983. Representation submitted in this regard was rejected vide order dated 14.08.2018. Hence this O.A. has been filed.

4. Ld. Counsel for the applicant submitted that applicant after transfer to reserve was recalled on 04.06.1963 and has served for 05 months and

11 days as colour service. Thereafter, he was also recalled for 02 months between 16.11.1973 to 30.06.1983. Thus, his submission is that applicant has rendered more than 15 years of colour service and he is entitled to regular service pension.

5. On the other hand, submission of learned counsel for the respondents is that as per 7th CPC minimum pension has been fixed to Rs 9,000/- which is applicable to reservists pensioners also. His further submission is that as per Govt letter dated 08.03.2010, no provisions have been made to revise reservist pension. Learned counsel for the respondents further submitted that para 155 to 157 of Pension Regulations for the Army, 1961 provide that 'An OR reservist who is not in receipt of a service pension may be granted on completion of the prescribed combined colour and reserve qualifying service, of not less than 15 years a reservist pension at the rate of Rs 15.00 pm, on his transfer to pension establishment either on completion of his terms of engagement or prematurely irrespective of the period of colour service. This has effect from 1st April, 1968'.

Learned counsel for the respondents concluded that since applicant is already in receipt of revised reservist pension which he is entitled therefore, he is not entitled to regular service pension in accordance with rules on the subject.

6. We have heard learned counsel of both sides and perused the material placed on record.

7. We have also perused Special Army Instruction 17/S/68 relevant in the instant case which reads as under:-

"OR reservist who are transferred to the pension establishment on or after 01st April 1968, will be granted reservists pension at a uniform rate of Rs 15/- p.m., irrespective of their terms of engagement. The adhoc increment in pension will be paid in addition".

8. Thus, it is evident from the aforesaid that since the applicant was transferred to reserve establishment after 1968 i.e. in the year 1973, therefore, he is entitled to reservist pension only and not regular service pension as he has claimed. The 7th CPC has made applicable a minimum basic pension of Rs 9,000/- pm for all reservists and applicant is in receipt of reservist pension alongwith revised dearness allowance thereon w.e.f. 01.01.2016.

9. In the above scenario, applicant is entitled to reservist pension. Since applicant is already in receipt of revised reservist pension applicable to him as per 7th CPC, he is not entitled to regular service pension as claimed.

10. In view of the above, O.A. is devoid of merit and deserves to be dismissed. It is accordingly dismissed.

11. No order as to costs.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

rathore