

**BEFORE THE ARMED FORCES TRIBUNAL, REGIONAL
BENCH, LUCKNOW.**

Court No - 3

TRANSFERRED APPLICATION NO. 85 OF 2011.

FRIDAY, this the 28th August, 2015

**“Hon’ble Mr. Justice D.P. Singh, Member (J)
Hon’ble Air Marshal Anil Chopra, Member (A)”**

**Inder Deo, Son of Sri Parmeshwar Dutt
Resident of village : Karraihiya, H/o (Basantpur),
Post: Khajurahat, District: Faizabad.**

.....Petitioner

Ld. Counsel for the Petitioner: Shri S.K. Singh, Advocate

Versus

1. Union of India, Through Secretary, Ministry of Defence
Government of India, New Delhi -110011.
2. Chief of the Air Staff, Air Force Headquarters, Vayu
Bhawan, New Delhi.
3. Air Officer Commanding, Air Force Record Office,
Subroto Park, New Delhi.
4. Commanding Officer, Air Force Liaison Establishment,
Lucknow Region, c/o H.A.L. Faizabad.
5. Air Officer Commanding-in-Chief,
Maintenance Command, Nagpur

.....Respondents

Ld, Counsel for the : Shri A.K. Singh.
Respondents Central Govt Counsel, assisted by
Lt Col Subodh Verma, Departmental
Representative for the Respondents

ORDER**(Passed in Court)**

1 The Civil Misc. Writ Petition No. 3230 of 2005 has been received by this Tribunal by way transfer from High Court of Judicature at Allahabad on 05.07.2011 and renumbered as Transferred Application No. 85 of 2011.

2. The applicant through this Transferred Application(T.A.) has prayed as under :

(a) Issue a writ of certiorari quashing the ACR awarded to the petitioner for the year 2002-03 after summoning the same in its original from the opposite parties as the same is not made available to the petitioner.

(b) to issue order or direction in the nature of certiorari quashing the order passed by the opposite party No 3 for rejecting the request made by the petitioner for extension of service and also for quashing the discharge order No R.O/2504/2/RW(Dis) dated 25.5.2004, after summoning its original from the opposite parties as the same is not made available to him.

(c) to issue any writ, order or direction in the nature of mandamus commanding the opposite parties to grant extension of service to the petitioner for a period of three

years with effect from 31 May 2005 and to allow him to continue till extended period of three years i.e. upto 30.5.2008.

(d) any other suitable writ, order or direction which is deemed fit, just and proper in the circumstances of the case may kindly also be passed in favour of the petitioner.

(e) to allow the writ petitioner with costs to the petitioner.

3. Heard Shri S.K. Singh, Ld. Counsel for the petitioner and Shri A.K. Singh, Ld. Counsel for the Respondents, assisted by Lt Col Subodh Verma, Departmental Representative for the respondents at length and perused the relevant documents available on record.

5. Ld. Counsel for the petitioner submitted that short question in present petition is that the petitioner who attained the age of superannuation on 30.05.2005 was not given extension of service on the post of Junior Warrant Officer. The petitioner was enrolled in the Air Force on 31.05.1979. His regular engagement expired on 31 May 1994. He was granted extension by 06 years upto 30.05.2000. He was granted second spell of extension for 05 years upto 30.05.2005 but third time the petitioner was not granted extension.

6. Ld. Counsel for the Respondents submitted that the petitioner was not granted third time extension because of his adverse entries in his service record. Ld. Counsel for the petitioner submitted that the adverse entries which has been relied upon has not been communicated to the applicant. The fact remains that no fundamental right is violated. As per para 4 of Air Force Order 11/99, extension of service is granted to airman who meet the Annual Confidential Report criteria for extension of service. The denial of extension in case suffers from malafide and suffers from discrimination, then there may be a case of judicial review. In the present case extension was not granted to the applicant because of adverse entry. The petitioner retired from service almost about 10 years back. At this stage, extension may not be granted. The Original Application was filed in the year 2005. An opportunity is given to the applicant to approach appropriate Forum/Court for other relief in accordance with the rule, which may be considered in accordance of law. Attention has not been invited as to how applicants statutory or fundamental right has been violated. Applicant is not entitled for any relief with regard to extension of service.

7. With aforesaid observation, the Transfer Application is **dismissed**.

8. No order as to cost.

(Air Marshal Anil Chopra)
Member (A)
ukt/-

(Justice D.P Singh)
Member (J)