

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
E-Court No.1

O.A. No. 554 of 2021

Ex Sgt. Rajendra Prasad
By Legal Practitioner for the Applicant

Applicant

Versus

Union of India & Others
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>13.10.2022</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <p>Heard Wg Cdr A.K. Singh (Retd), learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents.</p> <p>Applicant has filed present Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 and has sought following reliefs:-</p> <p>“(a) Issue an appropriate order or direction to the respondents for release of service pension in terms of applicant’s 32 years of qualifying service rendered, w.e.f. 01.07.2014 as per One Rank One Pension (OROP) policy of the respondents dated 07.11.2015 (Annexure No. A-7), rather than the pension as admissible only for 25 years of service as is being paid by the respondents based upon the erstwhile maximum terms of engagement for the rank held by the applicant since the said maximum term of engagement system followed earlier stands abrogated ever since the time of 4th Central Pay Commission and onwards (Annexure A-6).</p> <p>(b) Issue an order or direction to the respondents to pay all the earlier dues to the applicant in a time bound manner as revised from time to time as per the actual service of 32 years rendered by the applicant, along with heave costs, interest and compensation by setting aside part of the rejection letter dated 22.12.2010 which is a copy to the applicant (Annexure No. A-1) issued by respondent.</p>

(c) Issue any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(d) Allow the application with cost.”

Brief facts of the case are that applicant was enrolled in the Indian Air Force on 29.08.1963 and was discharged from service on 31.08.1995 in the rank of Sergeant (Sgt) after rendering 32 years of qualifying service. As per PPO, qualifying service for pension without weightage is shown 32 years and 03 days but the applicant is getting pension calculated for 25 years only. As per para 6 of the OROP letter dated 07.11.2015, all the personnel retiring in the same rank with equal length of service, irrespective of their date of retirement, shall be paid same pension w.e.f. 01.07.2014 but the applicant is being paid a pension at the maximum terms of engagement of the rank of Sgt. prevalent at the time of his retirement, i.e. 25 years and not the pension for 32 years as per OROP scheme. Being aggrieved, the applicant has filed the present Original Application.

Learned counsel for the applicant submitted that applicant was enrolled in the Indian Air Force on 29.08.1963 and was discharged from service on 31.08.1995 in the rank of Sergeant (Sgt) after rendering 32 years of qualifying service. As per PPO, qualifying service for pension without weightage is shown 32 years and 03 days but the applicant is getting pension calculated for 25 years only. The Govt. of India, Ministry of Defence issued a notification dated 07.11.2015 implementing OROP scheme for Ex-servicemen w.e.f. 01.07.2014 which implies that '*uniform pension be paid to the Defence Forces Personnel retiring in the same rank with the same length of service, regardless of their date of retirement*'. Thus, it is clear that all the personnel retiring in the same rank with equal length of service, irrespective of their date of retirement, shall be paid same pension w.e.f. 01.07.2014 as per para 6 of the OROP letter dated 07.11.2015.

Learned counsel for the applicant further submitted that applicant is being paid a pension at the maximum terms of engagement of the rank of Sgt. prevalent at the time of his retirement, i.e. 25 years and not the pension for 32 years as per OROP scheme. He placed reliance on the judgment of AFT (RB), Chandigarh in O.A. No. 411 of 2018, **Ex MWO Chander Bhan vs. Union of**

India and Ors, decided on 04.10.2019 and pleaded that applicant's case being similar in nature, he should also be given benefit of OROP by releasing service pension of 32 years of qualifying service.

On the other hand, learned counsel for the respondents submitted that applicant was discharged from service on 31.08.1995. As per Appendix 'X' of Circular No. 555 (OROP), issued by the PCDA (P) Allahabad, maximum terms of engagement for grant of service pension in the rank of Sgt. is 25 years those who retired before 30.05.1998 and after 30.05.1998, it is 27 years. Since the applicant was discharged from service before 30.05.1998, his total service for grant of pension will be taken on account as per terms of engagement of 25 years in the rank of Sgt. and not actual qualifying service of 32 years.

Learned counsel for the respondents further submitted that Circular 555 (OROP) issued by the PCDA (P) Allahabad has revised service pension for each rank with corresponding qualifying service w.e.f. 01.07.2014 and release of service pension in terms of qualifying service is dealt by PCDA (P) Allahabad, therefore, applicant may approach to PCDA (P) for any clarification on Circular No. 555. He pleaded for dismissal of O.A.

We have perused the records and we find that policy of OROP simplified the entire concept of pension of Ex-servicemen and provided in a manner that uniform pension be paid to the Defence Forces personnel retiring in the same rank with same length of service, regardless of their date of retirement. Therefore, paying service pension based upon the terms of engagement of 25 years whereas the applicant has been made to serve for 32 years in the Indian Air Force, seems illogical and arbitrary on the face of it.

In view of aforesaid, we are of the opinion that the applicant is held entitled to the pension corresponding to 32 years of qualifying service as held by the AFT (RB), Chandigarh in the case of **Ex MWO Chander Bhan** (supra).

Resultantly, Original Application is **allowed**. The respondents are directed to release service pension to the applicant based upon the actual service rendered by him, i.e. 32 years rather than the 'maximum terms of engagement' existing at the time of his discharge from service (revised from time to time) as per the spirit of the OROP policy dated 07.11.2015, applicable w.e.f. 01.07.2014, as per rules and pay arrears accordingly. The Respondents

are directed to comply with the order within a period of four months from the date of receipt of certified copy of this order. Default will invite interest @ 8% per annum till actual payment.

No order as to costs.

Pending Misc. Application(s), if any, shall stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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