



2025:DHC:1125-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 21.02.2025

+ **W.P.(C) 5660/2022**
RAMAKRUSHNA SASMAL

.....Petitioner

Through: Mr. Himanshu Upadhyaye and
Mr. Nishant Bharioke, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Gaurav Sharma, SPC with
Mr. Siddhartha Nagpal and Ms.
Lipika Chawla, Advs.
Sh. Devender Singh, DC/JAG

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J (ORAL)

1. This petition has been filed by the petitioner, praying for a direction to the respondents to grant him pro-rata pension from the date of his discharge from the Indian Air Force.

2. It is the case of the petitioner that the petitioner was enrolled as an Airman in the Indian Air Force on 16.03.1992. He served there for 12 years, 10 months and 18 days, and was kept in the reserve liability list for the period of two years, before his final discharge from service on 03.02.2005. The petitioner claims that subsequent to his discharge, he joined as Junior Telecom Officer (JTO) in the Bharat Sanchar Nigam Limited (BSNL) on 16.05.2005. The petitioner claims that in



terms of the Policy Letter bearing No. 8(3)/86/A/D(Pension/Services) dated 19.02.1987 issued by the Ministry of Defence/Raksha Mantralaya, Government of India/Bharat Sarkar, the petitioner, was entitled to *pro-rata* pension for the period of his services. The petitioner, in support of his claim, places reliance on the Judgment of this Court in *Govind Kumar Srivastava vs Union of India & Ors.*, 2019 SCC OnLine Del 6425, and in *Brijlal Kumar & Ors vs Union Of India*, 2020:DHC:3331-DB.

3. The petitioner is aggrieved of the Order dated 16.02.2021 passed by the respondents, rejecting his prayer for grant of *pro-rata* pension.

4. The learned counsel for the petitioner submits that the only ground for rejecting the grant of *pro rata* pension to the petitioner is that the No Objection Certificate (NOC), that was earlier issued to the petitioner, was for joining the Bharat Electronics Limited (BEL), while the petitioner later went ahead and joined the BSNL. He submits that this cannot be a ground for rejecting the grant of *pro-rata* pension to the petitioner in terms of the Policy Letter dated 19.02.1987 and the Judgments of this Court referred to hereinabove.

5. On the other hand, the learned counsel for the respondents submits that though it is a fact that by a Letter dated 02.03.2001, a NOC was granted to the petitioner for applying for the post of Probationary Engineer in the BEL, however, the petitioner was not successful in the said selection process and continued to remain in service with the Indian Air Force. It was only by a Letter dated



October, 2004 that the petitioner sought discharge stating therein that he needed to acquire a Masters Degree in Electrical Engineering from Delhi College of Engineering and on compassionate grounds. The said request of the petitioner was accepted and he was finally discharged on 03.02.2005. The order of discharge records the same as under:-

“Reason for discharge

xxxx

*(3) Other reason “AT HIS OWN REQUEST BEFORE
FULFILLING CONDITION OF ENROLLMENT”*

6. He submits that, therefore, the petitioner did not fulfil the conditions as prescribed in the Letter dated 19.02.1987 inasmuch as he did not file an application for employment with BSNL through proper channels nor sought discharge from service from the Indian Air Force on the ground that he had to join another Central Public Enterprise.

7. We have considered the submissions made by the learned counsels for the parties.

8. The Policy Letter dated 19.02.1987 states that for grant of *pro-rata* pension, the employee is to be appointed in a Central Public Enterprises on the basis of an application sent through proper channel and should be permitted to retire pre-maturely from service in defence services for purposes of taking up appointment in the Enterprises. We quote from the policy as under:-

*“2. The provisions of this letter will apply to those
who:*

xxxx

xxxx

xxxx

*(ii) are appointed in Central Public Enterprises on
the basis of their own applications sent through
proper channel in response to advertisements and*



are permitted to retire prematurely from service in the Defence Services for the purpose of taking up the appointment in the Enterprises.”

9. In the present case, the petitioner applied for discharge from the Indian Air Force, not to join any Central Public Enterprise, that is, BEL or BSNL, but to acquire a Masters Degree in Electrical Engineering from Delhi College of Engineering. It was this request that was finally accepted by the respondents *vide* the Letter dated 03.02.2005, and he was allowed to be discharged from service at his own request before fulfilling the condition of enrolment. The petitioner is not even claiming that he applied to BSNL through the proper channel or after taking the NOC from the respondents.

10. Accordingly, the petitioner failed to fulfil the conditions of Policy Letter dated 19.02.1987 and is not entitled to seek benefit thereunder. The judgments of this Court in *Govind Kumar Srivastava* (supra) and in *Brijlal Kumar* (supra) also, therefore, not applicable in the facts of the present case.

11. The submission of the learned counsel for the petitioner, by placing reliance on the Judgment of this Court in *Sivakumar Mathada vs. Union of India & Ors.*, 2022:DHC:588-DB, that the grounds for rejection cannot be enlarged at a later stage, also cannot be accepted inasmuch as the Impugned Order records detailed reasons for rejecting the request of the petitioner for grant of pro rata pension, as under:-

“8. AND WHEREAS, as per records you were neither issued with No Objection Certificate (NOC) from the Air Force to join BSNL as JTO, nor applied for civil post in terms of impugned letter GOI, MOD letter No. 8(3)/86/A/D (Pension/Services) dated 19



Feb 1987 as interpreted in Govind Kumar Srivastava (supra) judgement dated 11 Dec 19 in WP(C) 5642/2019 and Brijlal Kumar (supra) and other connected petitions supra.

9. **AND WHEREAS**, you have voluntarily taken discharge from service on 03 Feb 05 on **Compassionate Grounds, not on selection to Civil Post**. This factum of your discharge on compassionate grounds has been mentioned in your discharge order vide DO list No. 15/2005 as per AFRO letter No. RO/2503/1/RW(Dis) dated 20 Jan 05.

10. **AND WHEREAS**, it is clear from the facts elaborated at para 8 to 9 above, **that your case is not identical to the petitioners** of WP No. 4942/1994 Govind Kumar Srivastava (supra) judgement dated 11 Dec 19 in WP(C) 5642/2019 and Brijlal Kumar (supra) judgement dated 24 Nov 2020 in WP(C) 98/2020 and other connected petitions (supra).

11. **NOW THEREFORE**, after taking into consideration of entire facts and circumstances elaborated above, Hon'ble High Court of Delhi order dated 15 Jan 21 and statutory provisions issued by Govt of India, Ministry of Defence Letter No. 8(3)/86/A/D (Pension/Services) dated 19 Feb 1987, Pro-rata pensionary benefits are not applicable in your case.”

12. In view of the above, we do not find any merit in the present petition, the same is, accordingly, dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 21, 2025
SU/KP/IK

[Click here to check corrigendum, if any](#)