



2025:DHC:6651-08



\$~1 & 2 (Special Bench)

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

Date of decision: 08.08.2025

+ **W.P.(C) 12208/2023**

+ **W.P.(C) 12284/2023**

SANTOSH KUMAR SAHU, EX CPL 742598-NPetitioner

RADHA KRISHAN SAHOO, EX CPL 742467-APetitioner

Through: Mr.Suresh Tripathy, Adv. in

W.P.(C) 12208/2023

Mr.Ankur Chhibber, Adv. in

W.P.(C) 12284/2023

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Rishabh Sahu, SPC with

Mr.Sameer Sharma, Adv. and

Mr.Amit Acharya, GP (through
VC) in W.P.(C) 12208/2023

Mr.Amit Gupta, SPC with

Mr.Atik Gill and Mr.Karan
Singh Rawal, Advs. and

Mr.Vidur Dwivedi, GP in
W.P.(C) 12284/2023

Sgt Manish Kumar Singh and

Sgt Mritunjay (Air Force Legal
Cell)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 1231/2025 in W.P.(C) 12208/2023

CM APPL. 16468/2025 in W.P.(C) 12284/2023

1. These applications seek condonation of the delay in filing the



review petitions.

2. For the reasons stated in the applications, the same is allowed.
3. The applications stand disposed of.

REVIEW PET. 9/2025

REVIEW PET. 157/2025

4. These review petitions have been filed seeking review of our Judgment dated 27.11.2024, by which we had allowed the above writ petitions and directed that the petitioner(s) shall be entitled to condonation of the shortfall in qualifying service for the grant of pro-rata pension, in terms of Officer Order dated 14.08.2001.

5. The grievance of the respondents/review petitioners is that this Court did not take note of the Circular bearing No.1(4)/2007/D(Pen/Policy)/Vol-II dated 04.11.2022, which expressly states that for the grant of pro-rata pension, the condonation of shortfall in service shall not be admissible.

6. It is further submitted during the course of arguments that, in any case, the petitioners, being Persons Below Officer Rank (in short, 'PBOR'), were not entitled to the grant of pro-rata pension. As far as this ground is concerned, which has been urged only orally, the same is covered by the Judgment of this Court in ***Govind Kumar Srivastava v. Union of India & Ors.***, 2019 SCC OnLine Del 6425, wherein this Court found that the exclusion of the PBOR from the grant of pro-rata pension under the Circular dated 19.02.1987 was violative of Article 14 of the Constitution of India. We may reproduce the relevant finding of the Court as under:

“20. A weak attempt was made by learned counsel



for the Respondents to suggest that the Petitioner was not permanently absorbed in Air India and therefore his case may stand on a different footing. Apart from the fact that this is factually incorrect, the question really is whether there is any rational basis for holding a NCO/ PBOR like the Petitioner disentitled to pro rata pension in terms of the letter/circular dated 19th February 1987, once such PBOR has fulfilled all other conditions for grant of pro rata pension viz., completion of ten years of regular service in the Defence Services followed by absorption in a PSU. The Court is unable to find any such justification or rational basis being put forth by the Respondents to justify the discriminatory treatment. The explanation put forth that grant of the benefit to Ex-Sergeant Kalan was because his was “a special case” and should not be treated as a precedent, and on that basis to deny the Petitioner who is identically placed the same relief, does not stand legal scrutiny.

21. With the Respondents failing to answer the principal challenge by the Petitioner to discriminatory part of the circular/letter dated 19th February 1987, the Court has no hesitation in holding that the denial in terms of the said letter/circular of the benefit of pro rata pension to PBORs/NCOs like the Petitioner is violative of Article 14 of the Constitution.”

7. As far as the reliance on the Circular dated 04.11.2022 is concerned, paragraph 5 thereof on which reliance has been placed by the respondents/review petitioners, reads as under:

“5. No Pro-rata pension will be payable to a JCO/OR absorbed in a Central Public Enterprises/Central Autonomous Bodies/ Central Public Sector Undertaking with less than 10 years of qualifying service in Defence Service. Further, condonation of short fall in Service shall not be admissible for grant of pro-rata pension, if JCOs/OR has less than 10 years of qualifying

