



2025:DHC:5902-DB



\$~1 (Special Bench)

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

Date of decision: 22.07.2025

+ W.P.(C) 5401/2022
JAFOR ALI MOLLAH, EX CPL 699193Petitioner
Through: Ms.Pallavi Awasthi, Adv.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr.Naginder Benipal, SPC with
Mr.Ankit Siwach, Mr.Udit
Vaghela, Advs. for UOI.
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)

REVIEW PET. 303/2025 & CM APPL. 29817/2025

1. This Review Petition has been filed seeking review of the Judgment dated 07.08.2024 passed in the above Writ Petition, whereby the Writ Petition filed by the petitioner had been allowed with the following directions:

“11. The writ petition is accordingly allowed by directing the respondent no. 1 to verify whether the NOC annexed by the petitioner with his application, had been issued by the IAF. The said verification shall be carried out within four weeks from today and if pro-rata pension is found payable to the petitioner, the



same shall be granted to him from the date of discharge and shall continue to be paid in future as well. Arrears thereof shall be paid within a period of 12 weeks i.e., after the verification. If the arrears are not paid within 12 weeks, same shall be paid with interest @ 7% per annum."

2. The limited grievance of the review petitioners is that the writ petitioner had been discharged from the services of the Indian Air Force on 15.11.1997. He, however, filed the Writ Petition after a delay of 25 years and, therefore, in accordance with the judgment of Supreme Court in ***Union of India & Ors. v. Tarsem Singh***, 2008 (8) SCC 648, the arrears should be restricted to three years prior to the filing of the Writ Petition.
3. The learned counsel for the review petitioners submits that this Court, in other matters, has also been confining the relief to three years prior to the filing of the Writ Petition. As an example, he places reliance on the judgment of this Court in ***Pramod Kumar Bidua v. Through its Secretary, Union of India & Anr.*** 2024:DHC:9607-DB.
4. On the question of condonation of delay in filing of the Review Petition, it is pleaded that by a letter dated 17.01.2025, the Government Counsel was requested to draft the present Review Petition. Thereafter, certain documents and judgments were sought by the counsel, which were supplied to him, and finally the first draft was emailed to the review petitioners on 27.02.2025 by the Government Counsel, and after making the changes, the Review Petition was mailed back on 26.03.2025, and was eventually filed on 09.05.2025.
5. On the other hand, the learned counsel for the respondent, who



appears on advance notice of this Review Petition, submits that the Review Petition is highly belated and there is no explanation for the delay.

6. She further places reliance on the judgment of this Court in **Brijlal Kumar & Ors. v. Union of India & Ors.**, 2020:DHC:3331-DB, wherein a similar plea to that of the review petitioners was rejected by this Court, observing as under:

“We have also considered the aspect of delay. Claim of a large number of petitioners for arrears of pro rata pension, is indeed for more than a decade or two. Ordinarily, they would have been entitled to arrears of three years preceding the petition only. However, in the judgments passed till now and which have attained finality, no such restriction has been placed. We are hesitant to treat these petitioners differently and thus opt to grant the same relief i.e. of full arrears, as has been granted till now.”

7. She further submits that the present Writ Petition was the second round of litigation as the writ petitioner had previously filed W.P.(C) 4784/2021 for the same relief, which was disposed of by this Court *vide* judgment dated 13.05.2021, with the following directions:

*“5. Accordingly, these petitions are disposed of along with pending applications directing the respondents Indian Air Force that within twelve weeks herefrom, if they find the petitioners to be similarly placed as the petitioners in **Govind Kumar Srivastava** (supra) and **Brijlal Kumar** (supra) and other connected petitions supra, to grant them the same relief as granted in those petitions i.e. by payment of arrears of pro rata pension from the date of discharge till the date of payment and in future to continue to pay pro rata pension to the petitioners. However, if on*



*verification it is found that the petitioners, for any reason, are not entitled to pro rata pension for reasons other than those stated in the judgments in **Govind Kumar Srivastava** (supra) and **Brijlal Kumar** (supra) and other connected petitions supra being in personam, the respondents, within the said twelve weeks, shall communicate to the petitioners, not so found entitled, the reasons in writing thereof and in which event, the petitioners shall be entitled to take further remedies there against. Needless to state that if any documents are asked for by the respondents, the same shall be furnished by the petitioners within a week.*

6. If the arrears of pro rata pension are not paid within twelve weeks, the same shall also incur interest thereon @ 7% per annum from the expiry of twelve weeks till the date of payment.”

8. She submits that, therefore, a direction has already been issued that the payment of arrears of *pro rata* pension should be made from the date of discharge. She submits that the said order has also attained finality and, therefore, cannot be reviewed at this stage in the present Review Petition.

9. In rejoinder, the learned counsel for the review petitioners submits that as far as the judgment dated 13.05.2021, referred hereinabove is concerned, it was directed that the Review Petitioners shall consider the case of the writ petitioner. He submits that it was pursuant to such directions that the Order dated 31.05.2021 was passed by the review petitioners, rejecting the claim for the grant of *pro rata* pension made by the writ petitioner. He submits that, therefore, the judgment dated 13.05.2021 shall have no application to the facts of the present case.



10. The learned counsel for the review petitioners also places reliance on the Circular dated 04.11.2022 to submit that the Government has taken a policy decision to extend the benefit of *pro rata* pension to the Officers, however, while prescribing that the financial benefit for the past cases, that is, cases prior to the issuance of the said order, will be allowed only prospectively from the date of the issuance of the said order only.

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

12. At the outset, we note that the present Review Petition is highly belated and there is no sufficient cause shown for such delay. Mere administrative movement of the file, cannot be a sufficient explanation for the delay. Therefore, on the ground of delay alone, the Review Petition is liable to be dismissed.

13. Notwithstanding the delay, we proceed to examine the matter even on merits.

14. We note that this Court, *vide* judgment dated 13.05.2021, had directed that in case the writ petitioner is found to be entitled to the grant of *pro rata* pension, the same should be given to him from the date of discharge. Significantly, this judgment has attained finality and has not been challenged. The review petitioners, in purported compliance with the said judgment, proceeded to pass an Order dated 31.05.2021, denying the *pro rata* pension to the writ petitioner. The said order was, however, set aside by this Court *vide* its judgment dated 07.08.2024, the review of which has been prayed for.

15. Upon a careful examination of the facts and circumstances, and



considering the precedents, we find the case of the writ petitioner to be identical to *inter alia* **Brijlal Kumar** (supra), where this Court had considered the issue of limitation on payment of arrears of *pro rata* pension, and granted *pro rata* pension from the date of discharge of the Officer therein.

16. As far as the Circular dated 04.11.2022 is concerned, in our opinion, in light of the judgments of this Court referred hereinabove, the same cannot be read to deny the benefit to the writ petitioner.

17. We, therefore, find no merit in the present Review Petition. The same is, accordingly, dismissed, both on the ground of delay and on merits.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JULY 22, 2025/Arya/SJ