

ORDER SHEET**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA**
APPLICATION No. : O. A. No. - 61/2017 WITH M. A. No. 53/2019Applicant(s)

Shri Devi Singh

Legal Practitioner for Applicant(s)

Mr. Jagdish Ranjan Das, Ld. Advocate

Respondent(s)

Union of India & Others

Legal Practitioner for Respondent(s)

Mr. Ajay Chaubey, Ld. Advocate

Notes of the Registry	<u>ORDERS OF THE TRIBUNAL</u>	
	Order Ser. No. : _____	Dated : 06.05.2022
	<p align="center"><u>M.A. No. 53/2019</u></p> <p>Keeping in view the averments made in this application, the same is allowed. The delay in filing the counter affidavit is condoned. The counter affidavit is taken on record. MA stands disposed of.</p> <p align="center"><u>O.A. No. 61/2017</u></p> <p>2. By way of this application filed under Section 14 of the Armed Forces Tribunal Act 2007, the applicant has prayed for the following reliefs:</p> <p>(a) An order/direction directing the respondents to cancel, rescind, withdraw or set aside the purported 'Reply Representation being dated 08 march, 2017 being made with a pre-decided mind.</p> <p>(b) The applicant prays that he be granted pro-rata/reservist pension month by month from the date of his retirement on 31.03.1978 in conformity to the judgment of Hon'ble Kerala High Court and the judgment and order of this Hon'ble Bench as also of Hon'ble AFT (RB) Chennai Bench in the light of Hon'ble AFT Principal Bench, New Delhi.</p> <p>(c) An order directing the respondents to grant him his due pro-rata/reservist pension and pensionary benefits including the arrears of pension as due with statutory interest thereon be allowed in favour of the applicant, since suffering for a long time.</p> <p>(d) A direction be issued upon the respondents to produce all the records of the case before the Hon'ble Tribunal for adjudication of the issues</p>	

involved with copy of the learned advocate of the applicant for a conscionable justice.”

3. The brief facts of the case are that the applicant joined the Indian Navy as a ‘Boy’ on 16th December, 1966 and was released from service on 31st March, 1978 after putting in 11 years, 03 months and 15 days of service. It is submitted that the applicant was regularly posted at Engineering Department as an Engineering Mechanic Gr.II and thereafter promoted as Engineering Mechanic Gr.I It is further contended that the applicant was not placed in the ‘Fleet Reserve’ due to discontinuance of Fleet Reserve policy with effect from 3rd July, 1976. It is also contended that for his remarkable service the applicant is the recipient of Sangram and 25th Independence Anniversary Medals.

4. Respondents have filed a detailed counter affidavit. It is submitted that the policy of drafting of sailors to Fleet Reserve was discontinued with effect from 3rd July, 1976, as admitted by the applicant, and, therefore the applicant was not drafted to the Fleet Reserve. It is also averred that to become eligible for service pension applicant was required to give his willingness but he did not exercise that option and was, therefore, discharged as ‘non-pensioner’. It is further contended that as per Regulation 78 of Navy (Pension) Regulations 1964, there is no provision for grant of pension on pro-rata basis to those personnel who have rendered less than minimum service, i.e., fifteen years. The applicant had put in only 11 years, 03 months and 15 days of service. Further contention of the respondents is that in accordance to Regulation 92 of Navy (Pension) Regulations since the applicant was not drafted to the Fleet Reserve, he is not eligible for grant of Reservist Pension.

5. We have heard learned counsel on both sides and have perused the material available on record. As per the applicant’s own admission he has put in less than minimum service required to entitle him to receive service pension. He also missed the opportunity available to him to submit his willingness for further extension of service as is evident from

Annexure R-1. As far as his prayer for pro-rata pension is concerned, the same cannot be granted in view of Regulation 78 of Navy (Pension) Regulations 1964 as no such provision exists in the pension regulations for those who have rendered less than fifteen years of service.

5. On perusal of record and after going through the pleadings, we are satisfied that the applicant has miserably failed to make out a case for grant of reliefs as claimed in this OA.

6. In view of the above, we find no merit in the case and accordingly dismiss the same without any order as to costs.

(LT GEN BOBBY CHERIAN MATHEWS)
MEMBER (A)

(JUSTICE ANJANA MISHRA)
MEMBER (J)

/vks/