

**COURT NO. 3, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH: NEW DELHI**

18.

**OA 112/2020 with MA 130/2020**

**Sgt DK Sinha (Retd.)** ... **Applicant**  
**Versus**  
**Union of India and Ors.** ... **Respondents**

**For Applicant** : Mr. Pushpendra Kumar Dhaka, proxy for  
Mr. Manoj Kr. Gupta, Advocate  
**For Respondents** : Mr. Sagar Mehlawat, proxy for  
Mr. Harish V.Shankar, Advocate

**CORAM :**  
**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**  
**HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)**

**ORDER**  
**13.01.2023**

**MA 130/2020**

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of **11461** days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of **Uoi & Ors Vs Tarsem Singh 2009(1) AISLJ 371** and in **Ex Sep Chain Singh Vs Union of India & Ors (Civil Appeal No. 30073/2017)** and the reasons mentioned in the application, the MA 130/2020 is allowed and the delay of **11461** days in filing the OA 112/2020 is thus condoned. The MA is disposed of accordingly.

**OA 112/2020**

The applicant has filed the present application seeking the following reliefs:

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- A. To direct the respondents to grant Pro-rata pension from the date of discharge alongwith arrears @ 10% interest or***
- B. Direction may be passed to insert word Airmen/PBORs along with commission officer in the relevant portion of the letter/circular No. 8(386/AFT(Pension/Service) dated 19 Feb 1987 issued by the MOD which restrict the Pro-rata pension to the Commissioned Officer only.***
- C. Any other just and equitable order in the interest of justice may kindly be passed.”***

Learned counsel for the respondents has placed on record the copy of the policy letter dated 04.11.2022 no. 1(4)/2007/D(Pen/Policy)/Vol- II as issued by Gol MoD which inter alia mentions in Para 3 & Para 9 thereof to the effect:

***“3. The pensionary benefits enumerated in this letter are admissible only to those JCOs/ORs who leave the Defence service with proper permission to secure employment in a Central Public Enterprises/Central Autonomous Body/Central Public Sector Undertaking. A case for grant of these benefits will be initiated by the Service Headquarters only after ascertaining from the Central Public Enterprises/Central Autonomous***

***Body/Central Public Sector Undertaking concerned that the personnel has actually joined them. All cases for grant of pensionary benefits to JCOs/ORs of Army and their counterparts in Air Force/Navy will be decided by respective Service Headquarters and a separate sanction will be issued in each case.***

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***9. The provision of this letter will be applicable to those JCOs/ORs who are absorbed/appointed in Central Public Enterprises/ Central Public Sector Undertaking (on or after 06.03.1985) or Central Autonomous Bodies (on or after 31.03.1997). In such cases there will be a notional fixation of pro-rata pension retrospectively in accordance to the provision of Govt. letters mentioned at para 1 above as applicable to him/her and thereafter Pro-rata pension will be revised up to the date of effect of letter with relevant Govt. orders for revision of pension. However, the financial benefit in past cases that is, cases prior to issue of this order, will be allowed prospectively from the date of issue of this order only and therefore no commutation of pension or DCRG shall be admissible in past cases."***

It is submitted on behalf of the respondents that in terms of said policy the respondents do not oppose the prayer made by the applicant seeking grant of pro rata pension from the date of discharge along with arrears @ 10%, subject to verification of records which may be granted in view of letter dated 12.01.2023 no.

Air HQ/99798/4/SP/DAV vide which it has been stated that the said letter dated 04.11.2022 no. 1(4)/2007/D(Pen/Policy)/Vol-II would be applicable to those JCOs/ORs who are absorbed/appointed in Central Public Sector Enterprises/Central Public Sector Undertaking (on or after 06.03.1985) or Central Autonomous Bodies (on or after 31.03.1987) and having not less than 10 years of qualifying service in Defence.

In view thereof, the prayer made vide Clause 'A' of the application is allowed, subject to verification. Learned counsel for the applicant in the circumstances does not press the prayer Clause 'B'.

The OA stands disposed of.

**(JUSTICE ANU MALHOTRA]  
MEMBER (J)**

**[LT GEN C. P. MOHANTY]  
MEMBER (A)**

AP/pooja