

**ARMED FORCES TRIBUNAL CHANDIGARH BENCH AT
CHANDIMANDIR**

O.A.No.84 of 2010

A.K.Kalia

Vs

U.O.I & ors.

ORDER

Present: For the applicant (s): Mr. Navdeep Singh, Advocate

For the respondents: Ms. Geeta Singhwal, CGC.

JUSTICE GHANSHYAM PRASAD

Notice has already been served upon the respondents.

Heard learned counsel for both the parties.

The applicant was commissioned in the Army Medical Corps in the year 1971. He was promoted to the rank of Lt. Colonel and he retired on 31-07-2005 on attaining the age of 56 years. In the mean time 'AV Singh Committee' was constituted to form the policy with regard to promotions in the Army. On the basis of the report of the Committee, the Government reduced the time frame for time-scale promotions for commissioned ranks upto the rank of colonel. The said policy was implemented in the Army on 16-12-2004. The said policy is stated to be implemented for all Arms & Services of the Defence Forces with suitable variations. It was implemented with due date in all other Departments. However, the same could not be implemented in the Army

Medical Corps to which the petitioner belonged. However, ultimately the said policy was implemented on 28-10-2005 by the respondents with retrospective effect i.e. from 16-12-2004. According to the said new policy, the applicant was also given time scale promotion with retrospective effect i.e. from 16-12-2004. Before the said policy was implemented, he had also retired on 31-07-2005 in the rank of Lt Colonel on attaining the age of superannuation i.e. 56 years meant for Lt colonel.

It is submitted by the learned counsel for the applicant that since the applicant was granted time-scale promotion in the rank of colonel with retrospective effect i.e. 16-12-2004, the petitioner is entitled to get notional revision of pension and other retiral benefits in the rank of colonel from 31-07-2007 which would have been his retirement age in the rank of colonel. In support of his contention, he has annexed Annexure A-1 which shows the date of retirement of the colonel and equivalent rank as 58 years. Annexure A-2 has also been annexed to show that the age of retirement in the time-scale and selection grade of colonel is the same. Annexure A-3 is the order issued by the competent authority granting substantive promotion to the rank of colonel (time-scale) to the petitioner w.e.f. 16-12-2004.

Learned counsel for the respondents after going through the various annexures annexed with the application submits that in view of the retrospective promotion granted to the applicant, he is entitled to get notional benefits in the pension and other pensionary matters.

Learned counsel for the respondents has specifically pointed out para 8 of Government sanction letter dated 28-10-2005 (Annexure A-8) in which the Government itself has made provision for revision in pay and pension with retrospective effect i.e. from 16-12-2004.

Thus having regard to the facts and circumstances of the case as well as the submissions of the learned counsel for both the parties coupled with various annexures, we are of the view that the petitioner is entitled to get notional benefits in fixation of pension and other retiral benefits as admissible to him as per the instructions in the rank of colonel both for the purposes of pay and retirement age as fixed by the Government vide Annexure A-1. The respondents are directed to assess and release the pension and all other reitral benefits in favour of the applicant in the light of the above directions within four months from the date of receipt of this order.

Accordingly, this application stands disposed at the stage of preliminary hearing.

(Justice Ghanshyam Prasad)

(Lt Gen H S Panag (Retd))

25-02-2010
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