

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI****O.A. No.335 of 2019**Thursday, the 12<sup>th</sup> day of January, 2023

CORAM:

**HON'BLE MR. JUSTICE K.HARILAL, MEMBER (J) &  
HON'BLE AIR MARSHAL SRK NAIR, PVSM, AVSM, VM, M-in-D, MEMBER (A)****Applicant**

Ex No. 6611787 Sep/Reservist Laxman Kagale  
Aged 74 years, S/o. Late Appa  
Kurli P.O., Chikodi, Belgaum (Dist.)  
Karnataka- 591 241.

(By Adv. T.R. Jagadeesh &amp; Ratheesh B))

***versus*****Respondents**

1. Union of India, Represented by its Secretary,  
Ministry of Defence, South Block,  
New Delhi – 110 011.
2. The Chief of the Army Staff, Integrated Head Quarters (Army)  
South Block, New Delhi -110 011.
3. OIC Records, ASC (MT) Records  
Bangalore-560007.
4. Principal Controller of Defence Accounts (Pensions)  
Office of the PCDA (P)  
Draupati Garh, Allahabad-211014.

(By Adv. C.B. Sreekumar, Senior Panel Counsel)

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI**  
**O.A. No.335 of 2019**

**Ex Sep/Reservist Laxman Kagale . . . . Applicant**  
***Versus***  
**Union Of India & Others . . . . Respondents**

**For Applicant :** Mr. T.R.Jagadeesh & Ratheesh B, Advocates  
**For Respondents :** Mr. C.B. Sreekumar, Senior Panel Counsel.

**CORAM:**

**HON'BLE MR. JUSTICE K.HARILAL, MEMBER (J)**  
**HON'BLE AIR MARSHAL SRK NAIR, MEMBER (A)**

**ORDER**  
**12.01.2023**

The applicant, Ex No.6611787 Sepoy/Reservist Laxman Kagale who was discharged from service on 30.11.1982 after 20 years of combined colour and reserve service, aggrieved by reservist pension being limited to Rs.3500/- since 1.1.2006 against the minimum service pension of ₹9000/- as per 7<sup>th</sup> CPC, has approached this Bench seeking relief.

2. Sri.T.R Jagadeesh, the learned counsel for the applicant stated that he was enrolled in the Indian Army on 6.11.1962 and transferred to reserve on 22.5.1974 after completing 11 years, 6 months and 16 days of colour service. He was discharged on 30.11.1982 after 20 years of combined colour and reserve service and

he is in receipt of reservist pension vide PPO No.S/4624/83. Thereafter reservist pension of the applicant was revised from time to time. The Government of India had set up a committee headed by cabinet secretary to study various anomalies in pensions for armed forces personnel and accordingly, Government of India (MoD) had issued Annexure A-4 letter with their recommendations. Accordingly, PCDA(P) issued Circular No.430 along with fitment tables revising pension of PBORs, but reservist pensioners were excluded from the benefit of revision. Thus the applicant continues to draw pension at ₹3500 with effect from 1.7.2009 whereas all other pensioners were given the benefit of revision. The Government of India implemented One Rank One Pension (OROP) and paragraph No.4.1 of the policy letter excludes the reservist pensioners from the scope of OROP scheme, which is evidenced as Annexure A-5. Revision of pension as per OROP scheme was also denied to the applicant without any justifiable reason. Pursuant to 7<sup>th</sup> Central Pay Commission, Government of India issued a policy letter dated 29.10.2016 for revision of pension of pre 2016 retirees. As per the recommendation revision of pension is applicable to reservist pensioners. But the pension of the applicant has not been revised and it may be due to the reason that there is an express provision in Para 3 (iv) that reservist in receipt of ex-gratia

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payment are not eligible for revision of pension. The provision is very clear that it is not applicable only in cases of reservists who are in receipt of ex-gratia pension. Whereas the revision is applicable to reservist pensioners and the applicant being a reservist pensioner is eligible for revision of pension in terms of 7<sup>th</sup> CPC. The revision being denied is because of misinterpretation of policy letter. Pursuant to Annexure A-6 Government Order, PCDA (P) issued Circular No.570 on the basis of which the minimum pension is to be fixed at Rs.9000/-. Whereas the reservist pensioners like the applicant were not given the minimum pension and continue to draw old pension of ₹3500/-. The applicant is aggrieved by the exclusion of reservist pensioners from the scope of revision with effect from 1.7.2009 as per Annexure A-4 Government Order, revision with effect from 1.7.2014 as OROP scheme vide Annexure A-5 order, and 7 CPC from 1.1.2016 as per Annexure A-6 order.

3. The respondents are represented by Sri. C.B Sreekumar. The learned Senior Panel Counsel for the respondents stated that this applicant was enrolled on 6<sup>th</sup> November 1962 with terms of engagement of 10 years in colour and 10 years in reserve and was transferred to reserve on completion of colour service and further on completion of his terms of engagement, he was discharged from  
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service with effect from 30<sup>th</sup> November 1982 after rendering 20 years and 24 days of service. He was granted reservist pension which was enhanced from time to time as per his entitlement. The applicant was granted reservist pension as per Regulation 155 of Pension Regulations for the Army 1961. Whereas regular pensioners are granted service pension as per Regulation 132 of Pension Regulations for the Army 1961 which stipulates minimum qualifying service to earn service pension is 15 years colour service. Therefore it is clear that conditions for grant of service pension and reservist pension are entirely different. A sepoy who is drawing service pension and a sepoy drawing reservist pension are different and cannot be equated as the service pension is granted only after completion of 15 years of qualifying colour service whereas the reservist pension is granted for a combined service of colour and reserve of not less than 15 years. The Government of India has revised service pension as well as family pension for pensioners as per the recommendations of various pay commissions and issued Circular No. 430 dated 10<sup>th</sup> March 2010, Circular No.501 dated 17<sup>th</sup> January 2013 and Circular No.555 dated 4<sup>th</sup> February 2016 regarding service pension and they are not applicable to reservist pensioners. The reservist pension of the applicant was revised by PCDA (P), Allahabad to a constant rate of Rs.3500/- with  
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effect from 1<sup>st</sup> January 2006, 1<sup>st</sup> July 2009, 24<sup>th</sup> September 2012 and 1<sup>st</sup> July 2014. Now, as per recommendation of 7<sup>th</sup> Central Pay Commission minimum pension has been fixed to ₹9000/- per month which is applicable to reservist pensioners also. All reservist pensioners are getting pension at the rate of ₹9000 per month plus Dearness relief at the rates revised from time to time as per the 7<sup>th</sup> CPC awards. Since the applicant is getting pension at the rate of Rs.9000/- per month plus dearness relief at the applicable rate this O.A is bereft of merits.

4. We heard the learned counsel for the applicant and the learned Senior Panel Counsel for the respondents. We also gone through materials placed on record by both counsel.

5. In this O.A, to consider the case of the applicant the only question that arises is, if the applicant is getting reservist pension at the rate of ₹9000/- per month plus dearness relief at the rates which are revised from time to time?

6. On the date of hearing, the learned counsel for the applicant intimated that the applicant is receiving reservist pension at the rate of ₹9000/- per month along with dearness relief as applicable to him. However, he contended that this meagre amount is unfair on the part of the respondents since the other pensioners are getting a

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much higher amount. In response, the learned Senior Panel Counsel for the respondents stated that several circulars and letters have been issued by Government of India regarding revision of pension. We have analysed the various Circulars and the relevant ones are quoted below:-

- (1) As per Para 4.1 and 4.3 of PCDA(P) Allahabad Circular No.430 dated 10<sup>th</sup> March 2010 ***"the provisions of Government letter, however, do not apply to the commissioned officers and their families and to all family pensioners of PBOR. These orders also do not apply to UK/HKSRA pensioner, Pakistan and Burma Army pensioners and these orders also do not apply to Reservist Pensioners"***.
- (2) As per Para 4.2 of PCDA(P) Allahabad Circular No.501 dated 17<sup>th</sup> January 2013 ***"the provisions of this letter, however, do not apply to all the family pensioners of JCOs/OR and the Commissioned officers and their families. These orders also do not apply to UK/HKSRA/KCIO pensioners, Pakistan and Burma Army pensioners. These orders do not apply to Reservist Pensioner, pensioner in receipt of disability element only and pensioner in receipt of Ex-gratia payment"***.

- (3) As per Para 4.2 of PCDA(P) Allahabad Circular No.555 dated 4<sup>th</sup> February 2016 regarding implementation of OROP, it states that ***"these orders do not apply to Reservist Pensioner"***.
- (4) As per PCDA(P) Allahabad Circular No.570 dated 31<sup>st</sup> October, 2016 captioned **"Implementation of Government's decision on Recommendation of Pension of Pre 2016 Defence Force Pensioners/Family Pensioners"**, the minimum pension of Reservist has been revised to Rs.9,000/- w.e.f. 1<sup>st</sup> January 2016.

We have also gone through Regulation 155 of Pension Regulations for the Army 1961 (Part-I) which is the basis of calculation and the same is reproduced below:-

***"155. An OR reservist who is not in receipt of a service pension may be granted on completion of the prescribed combined colour and reserve qualifying service, of not less than 15 years, a reservist pension equal to 2/3<sup>rd</sup> of the lowest pension admissible to a sepoy, but in no case less than Rs.375/- p.m. on his transfer to pension establishment either on completion of his term of engagement or prematurely irrespective of the period of colour service."***

7. A conjoint reading of Regulation 155 of Pension Regulations for the Army 1961 and PCDA (P) Circulars No.430, 501 and 555 clearly



establishes that reservist pensioners are entitled to 2/3<sup>rd</sup> of the minimum pension of a Sepoy, as revised from time to time, but not entitled to OROP benefits. PCDA (P) Circular No.570 dated 31<sup>st</sup> October 2016 has fixed the reservist pension at ₹9000 from 1.1.2016. Admittedly, the applicant is already in receipt of reservist pension at the rate of ₹9000 along with dearness relief from 1.1.2016. If that be so, the applicant is getting the amount authorised by Government of India, and therefore, we do not find any legal validity in the claim of the applicant.

8. This O.A is devoid of merit and stands dismissed.

9. No order as to cost.

Sd/-  
**JUSTICE K. HARILAL**  
**MEMBER (J)**

Sd/-  
**AIR MARSHAL S. R. K. NAIR**  
**MEMBER (A)**

mds/

/True copy/