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

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*Date of Decision : September 28, 2012*

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**WP(C) 6191/2012**

HAVILDAR GIAN SINGH ....Petitioner

Represented by: Mr.K.Ramesh, Advocate and  
Ms.Archana Ramesh, Advocate.

versus

UOI & ORS. ...Respondents

Represented by: Mr.Ankur Chhibber, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MR. JUSTICE MANMOHAN SINGH**

**PRADEEP NANDRAJOG, J. (Oral)**

1. Allowing TA No.105/2009 and holding that the order dated March 31, 1993 sentencing petitioner to four months in military prison and reducing him to ranks is not sustainable, the Armed Forces Tribunal set aside the order discharging petitioner from service passed on December 15, 1993, and holding that the sentence of imprisonment having been undergone, directed that the petitioner shall be given the rank of Havildar and would be deemed to be in service, but without back wages, till such time he earns pension in the rank of a Havildar.

2. The effect of the order passed by the Tribunal is that the petitioner is being paid pension in the rank of Havildar with effect from the date he would have superannuated as a Havildar.

3. Now, it is well known that as you pick up ranks in the Indian Army, the age of superannuation is enhanced. The petitioner has not disclosed to us the date of his superannuation if he had remained a Havildar, and we note that the effect of the petitioner reduced in rank required him to be superannuated from service on December 15, 1993.

4. We are not inclined to consider any submission on merits for the reason the impugned judgment is dated November 11, 2010 and the petitioner has acquiesced in the same by receiving pension as a Havildar on February 22, 2011. The writ petition has now been filed on September 26, 2012 and is listed today before us.

5. The petition is dismissed in limine without costs.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(MANMOHAN SINGH)**  
**JUDGE**

**SEPTEMBER 28, 2012**  
**dk**