

ARMED FORCES TRIBUNAL REGIONAL BENCH, KOCHI

O.A.NO.175 OF 2012

MONDAY, THE 3RD DAY OF DECEMBER, 2012/12TH AGRAHAYANA, 1934

CORAM:

HON'BLE MR. JUSTICE SHRIKANT TRIPATHI, MEMBER (J)
HON'BLE LT.GE.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

NO. 7240527 Y EX-HAV SANDEEP.N.T., MEG,
AGED 43 YEARS, THEKKE VEETIL HOUSE,
ELAYAVOOR, CHOVA.P.O., KANNUR DIST.,
KERALA STATE – 670 006.

BY ADV.SRI.RAMESH.C.R.

VERSUS

RESPONDENTS:

1. THE UNION OF INDIA,
THROUGH THE SECRETARY,
MINISTRY OF DEFENCE (ARMY),
SOUTH BLOCK, NEW DELHI – 110 001.
2. THE CHIEF OF ARMY STAFF,
DHQ.P.O.INTEGRATED HQRS.,
MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI – 110 001.
3. THE PRINCIPAL CONTROLLER OF DEFENCE
ACCOUNTS (PENSION), DRAUPADI GHAT,
ALLAHABAD,UTTARPRADESH – 211 014.
4. THE CONTROLLER OF DEFENCE ACCOUNTS,
WEST BLOCK-V, R.K.PURAM, NEW DELHI – 110 066.

5. THE OFFICER IN CHARGE (RECORDS),
RECORDS, THE MADRAS ENGR. GROUP,
BANGALORE – 560 042.
6. THE DCDA, I/C PAO (OR),
MEG & CENTRE, BANGALORE -560 042.
7. THE PCDA, 107, LOWER AGRAM ROAD,
AGRAM POST, BANGALORE -560 007.

BY ADV.SRI.P.J.PHILIP, CENTRAL GOVT. COUNSEL

O R D E R

Shrikant Tripathi, Member (J):

1. Heard Mr.Ramesh C.R for the applicant and Sri.P.J.Philip, Central Government Counsel for the respondents and perused the record.
2. With the consent of the counsel for the parties, the matter is being disposed of finally at the stage of admission.
3. The applicant was enrolled in the Indian Army Madras Engineer Group as a Soldier/Clerk on 26th December

1990 and after successful training he was attested as a Soldier on 29th November 1991 and was in due course promoted to the rank of Naik on 1st September 1994 and then to the rank of Havildar with effect from 1st August 1999. The applicant was discharged from the Army on 5th December 2010 on extreme compassionate grounds under the order of the Commanding Officer, Records MEG, Bangalore and by that time he had rendered 19 years 11 months and 10 days service. The applicant was informed by the Army Headquarters vide letter No./37913/AG/PS-3(b) dated 21st June 2005 that since implementation of Fifth Central Pay Commission there were number of cases of PBORs, who were promoted after 01 January 1996/10th October 1997 and their stepping up of pay was not being admitted by PAO (OR) AOC. The Army Headquarters further intimated that the corrigendum No.9 (A1 14/98) to SAI 1/S/98 had been issued which provided for exercise of an option for fixation of pay in respect of Army PBOR from the

next date of increment in the revised pay scale with effect from 1st June 1996. A true copy of the aforesaid letter of the Army Headquarters has been filed as Annexure A2. The applicant further alleged that the Commanding Officer 201 Eng Regt C/o. 56 APO vide letter No.297/A dated 17th August 2006 addressed to the ACDA 1/C, PAO (OR), Madras Engr. Group, Bangalore under intimation to the Records MEG, Bangalore forwarded applicant's option certificate for revision of pay scale of PBOR in accordance with AG's Branch, Integrated HQ of MOD (Army) letter No.B/3791`3/AG/PS-3(b) dated 21st June 2005. The forwarding letter has been filed as Annexure A3. The applicant has further stated that the cut off date for exercising option was also received and was initiated in the matter of the applicant. The office of the CGDA, West Block-V, R.K.Puram, New Delhi - 66 vide letter No.AT/I/3513/V dated 9th April 2008 informed 201 Engr Regt as follows:

"In this context, it is informed that the matter has already been referred by this HQrs to Director AG/PS-3, Int HQ of MoD (Army) vide our No.AT/I/3513/V dated 30.08.2007. Reply in this regard is awaited. Further correspondence on the subject matter may therefore please be made with them".

The applicant further stated that he has already given a detailed representation with regard to the grievance, a copy whereof is on record as Annexure A7, which is still pending for decision. Therefore the counsel for the applicant submitted that the respondents may be directed to give due consideration to the representation preferred by the applicant.

4. In view of the fact that the applicant's representation Annexure A7 is still pending with the respondents and no order has been passed so far, therefore, it would not be proper to consider the Original Application without disposal of the said representation. However, the

submission of the learned counsel for the applicant that the respondents may be directed to consider the representation Annexure A7 seems to be innocuous and as such is liable to be allowed.

5. The Original Application is disposed of at the stage of admission with the direction to the respondents to give due consideration to the applicant's representation Annexure A7 and pass appropriate order thereon in accordance with law, as early as possible ,preferably within a period of four months from today.

6. There will be no order as to costs.

7. Issue copy of the order to both side.

LT.GEN.THOMAS MATHEW
MEMBER (A)

JUSTICE SHRIKANT TRIPATHI
MEMBER (J)

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