

ARMED FORCES TRIBUNAL REGIONAL BENCH, KOCHI
O.A.NO.23 OF 2010
FRIDAY, THE 18TH DAY OF JANUARY 2013/28TH POUSHA, 1934
CORAM:
HON'BLE MR. JUSTICE SHRIKANT TRIPATHI, MEMBER (J)
HON'BLE LT.GE.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

MADHAVAN, NO. 1396634,
KODAMKUTHIYIL HOUSE,
THOZHUPADAM,
CHELAKARA,
TRICHUR DISTRICT,
PIN – 680 586.

BY ADV.SRI.BINU PAUL

VERSUS

RESPONDENTS:

1. ABHILAKH MADRAS ENGR. GROUP,
RECORDS, MADRAS ENGR. GROUP
POST BOX NO. 4201,
BANGALORE – 560 042.
2. UNION OF INDIA,
MINISTRY OF DEFENCE,
NEW DELHI.

BY ADV.SRI.TOJAN J VATHIKULAM, CENTRAL GOVT. COUNSEL

O R D E R

Shrikant Tripathi, Member (J):

1. Heard Mr.Binu Paul for the applicant and Mr.Tojan J Vathikulam for the respondents.

2. Mr.Binu Paul appearing for the applicant submitted that the applicant was initially enrolled as Non Combatant (Enrolled), (NCE), but was subsequently combatised with effect from 1st January 1972 under a policy of the Government and due to that the applicant's continuance as Combatant was cut short to 18 years or 45 years whichever was less. Had the applicant been allowed to continue as Non Combatant (Enrolled), he would have continued in service upto the age of 55 years, therefore, the applicant was entitled to be retained in service upto the age of 55 years as per the terms of engagement.

3. Mr.Tojan J Vathikulam appearing for the respondents, on the other hand, submitted that the

combatised service was more beneficial, therefore, the applicant accepted the said service and enjoyed the beneficial terms and conditions till the date of his discharge, therefore, he was not entitled to continue in service upto 55 years. It was open to the Government to modify the terms and conditions of the service at any moment.

4. Mr. Binu Paul lastly submitted that according to Regulation 164 of the Pension Regulations for the Army, 1961, the applicant was entitled to special pension and gratuity as his non combatant service had been abolished due to re-organization under a policy of the Government. In our view, Regulation 164 empowers the President of India to pass appropriate order in the matter, if such request is made.

5. The Original Application, with regard to the relief for a direction to the respondents to treat the applicant in the service upto 55 years, has no merit and is accordingly dismissed. However the other prayer for consideration of

the applicant's petition in terms of Regulation 164 of the Pension Regulations for the Army is left open to be considered by the respondents in accordance with law, provided any appropriate petition is filed by the applicant within two months from today.

6. There will be no order as to costs.

7. Issue free copy of the order to both side.

Sd/-

LT.GEN.THOMAS MATHEW
MEMBER (A)

sd/-

JUSTICE SHRIKANT TRIPATHI
MEMBER (J)

an

(true copy)

Prl.Pvt.Secretary