

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

161.

OA 2970/2023

Ex Lt Col S S Bedi Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ashwani Bhardwaj, Advocate with
Mr. Akhil Sharma, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R
20.12.2023

Respondents have not filed the counter affidavit.

2. The prayer made by the applicant in Para 8 reads as under:

“(i) Direct the respondents to grant pensionary benefits to the applicant, with all interests etc. in accordance with the applicable Army Act & Army Pension Regulations, and

(ii) Direct the respondents to issue the ECHS (Ex-Servicemen Contributory Health Scheme) Card, so that he can get the medical benefits, and

(iii) Allow the OA with all consequential benefits, and costs and pass any other or further order(s), in favor of the applicant, which this Hon'ble Tribunal may deem fit, just & proper in the above-mentioned facts & circumstances.”

3. Facts in nut shell indicate that for certain acts of commission and omission conducted, the applicant was proceeded against. He was tried for two charges in the matter of committing civil offence under Section 354 of Indian Penal

Code and acting in breach of Army Act Section 69. He was convicted in the trial and invoking the jurisdiction of this Tribunal under Section 15 (3) of the Armed Forces Tribunal Act, 2007, the applicant challenges the conviction. The applicant initially challenged his conviction by filing a Writ Petition before the Hon'ble Delhi High Court being WP (C) No.1824/1988. However, on formation of Armed Forces Tribunal and after coming into force of the Armed Forces Tribunal Act, the Writ Petition was transferred to this Tribunal and was registered as TA No.246/2010. By a detailed order passed on 01.10.2010, a Co-ordinate Bench of this Tribunal decided the Writ Petition filed as an appeal under Section 15 of the Armed Forces Tribunal Act and partly allowed the appeal, confirmed the conviction but converted the sentence of cashiering from service into fine of Rs.50,000/- for the offences proved against the applicant. Being aggrieved by the order passed by this Tribunal, Union of India filed a Criminal Appeal No.13/2013 before the Hon'ble Supreme Court and being aggrieved by upholding the order of conviction, the applicant also filed a Criminal Appeal No.997/2013. Both the criminal appeals were decided by a common order passed by the Hon'ble Supreme

Court on 29.07.2020 and in Para 13 the Hon'ble Supreme

Court disposed of both appeals in the following manner:

“13. The Tribunal converted the sentence of cashiering into a fine of Rs.50,000/- by holding that the Appellant has a blemishless record of service. The Tribunal found the imposition of the punishment of cashiering from service shockingly disproportionate. The Tribunal also highlighted the delay in the complaint made against the Appellant. We are not convinced with the reasons given by the Tribunal for converting the sentence from cashiering to imposition of fine of Rs.50,000/-. We restore the punishment of penalty of cashiering by taking into account the reprehensible conduct of the Appellant abusing a position of trust being a Doctor which is not condonable. However, we direct the Respondents to consider the entire record of service of the Appellant and his advanced age while taking a decision to initiate proceedings under the Army Pension Regulations. In case the Respondents decide not to initiate proceedings under Army Pension Regulations, the Appellant shall be entitled for all pensionary benefits. The amount of Rs.50,000/- deposited by the Appellant shall be refunded to him with interest accrued therefrom.”

4. Now based on the liberty granted by the Hon'ble Supreme Court, as indicated in Para 13 hereinabove, the applicant has filed this application for grant of pensionary benefits in accordance to the Army Pension Regulations.

5. Even though notice has been issued to the respondents, they have not filed any reply but pointed out that once the conviction of the applicant is upheld, he is normally not entitled to pensionary benefit but he should through a representation to the Competent Authority plead for grant of pensionary benefits in the form of a Mercy Appeal or a Mercy Petition and the same having not been done

respondents orally submit that they are unable to process the case of the applicant.

6. Keeping in view the facts and circumstances of the case and without entering into the controversies, we direct the respondents to consider the OA filed by the applicant as a representation/Mercy Petition for grant of pensionary benefits in accordance to the Regulations applicable to the applicant and take a decision either way by a speaking order indicating reasons as to why in case they feel pension cannot be granted to the applicant and communicate to this Tribunal within a period of eight weeks. Based on the decision taken, the applicant shall be granted liberty to canvas his contentions and challenge the decision in case it is adverse to him.

7. List again on **13.03.2024**.

8. A copy of this order be provided ***DASTI*** to learned counsel for the parties.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT GEN C.P. MOHANTY]
MEMBER (A)**