

**COURT No.2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

7.
OA 1627/2017 with MA 1220/2017

Ex Hav Yogender Singh Applicant
Vs
UOI & Ors. ...Respondents

For Applicant : Mr. V S Kadian, Advocate
For Respondents : Mr. Praneet Ranjan, Advocate

CORAM:
HON'BLE MR. JUSTICE V.K.SHALI, MEMBER (J)
HON'BLE LT. GEN. SANJIV LANGER, MEMBER (A)

ORDER
02.01.2018

Prima facie, there is already decision rendered by this Tribunal in TA No. 119/2009 vide order dated 28.10.2009, reproduced as under:

“11. Here the petitioner was convicted for the offence u/s 38 of the Army Act, which itself is a serious misconduct and under such circumstances, the petitioner shall not be entitled or have right to get pension as envisaged in the aforesaid rules. For the foregoing reasons, we are of the opinion that the Army personnel who has willfully absented for two years and 275 days and that fact is well established has no right to receive monetary/retiral benefits during the period in question.

12. In view of that we do not find any merit in the petition. The impugned orders passed by the CM and CAOS are legally sustainable and do not require any interference. Petition is, therefore, dismissed.”

2. Because of the observation made by the Hon'ble High Court in WPC No. 1162/1997 by way of civil appeal, and the decision taken by the Tribunal in TA 119/2009 the decision in that matter has become final.

3. The counsel for the respondents seeks time for filing reply to the OA as well as to the MA. Let reply to the main OA as well as to MA for condonation of delay be filed within eight weeks' with an advance copy to the applicant. Rejoinder, if any, may be filed within two weeks' time thereafter.

4. Lists on **26.03.2018**.

(JUSTICE V.K.SHALI)
MEMBER (J)

(LT. GEN. SANJIV LANGER)
MEMBER (A)

02.01.2018/Sp