

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

15.

RA 3/2023 with MA 349/2023 in OA 781/2017

UOI & Ors Applicant
VERSUS
Ex Sep Bhajan Singh (Died) Respondents
(Through LR Smt Kamala Devi)

For Applicant : None
For Respondents : Mr. Anil Srivastava, Advocate

WITH

16.

MA 3556/2022 in OA 781/2017

Late Ex Sep Bhajan Singh Through
LR Smt Kamla Devi Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : None

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER
11.07.2024

On behalf of the applicant of the OA 781/2017 has been submitted a copy of letter dated 10.05.2023, submitting to the effect that it has been stated therein that there is no condition of minimum qualifying service for the grant of disability pension. In the instant case OA 781/2017 was disposed of vide order dated 01.10.2019 with directions vide Para 8 thereof to the effect:-

“8. Resultantly, the O.A. is allowed. The impugned orders are set aside. The applicant's disability 'PERIPHERAL VASCULAR DISEASE LUMBER SYMPATHECTOMY (LT) OPTD AMPUTATION BEFORE KNEE (LT) M46.2 M51.9 L92.02090' @30% for life, is to be considered as aggravated by military service and his disability is to be rounded off from 30% to 50% for life. The applicant is entitled to disability pension from DSC. Considering the fact that the O.A has been admitted after condoning the delay and laches, therefore, in view of the decision of the Hon'ble Supreme Court in Shiv Dass vs. Union of India and others (2007 (3) SLR 445), the arrears of disability pension will be restricted up to a period of three years preceding the date of filing of the O.A. The date of filing of this O.A is 25.04.2017. Ordered accordingly. To be implemented by the respondents within four months from the date of receipt of a copy of this order. Default will invite interest @ 8% per annum.

9. No order as to costs.”

2. RA 3/2023 has been filed by the respondents arrayed to the OA 781/2017 on 12.12.2022 seeking a review and modification of the order dated 01.10.2019 in OA 781/2017 submitting to the effect that the applicant had not completed the requisite qualifying length of service of 15 years in terms of Para 132 of PRA 1961, (Part-I) and Para 47 of PRA 2008 (Part-I) and that the said aspect has not been taken into account. The said issue is also pending *sub judice* before the Larger Bench in OA 88/2016. On behalf of the applicant it is submitted that the applicant is in a dire state and that at least the disability element of pension till disposal of the RA 3/2023 may be granted.

3. Time is sought on behalf of the respondents seeking presence of the arguing counsel.

4. The matter be re-notified for hearing on 16.07.2024.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(LT GEN P.M. HARIZ)
MEMBER (A)**

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