

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

91.

OA 2805/2021

Maj Paramjeet Singh	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. SS Pandey, Advocate
For Respondents	:	Mr. Rajeev Kumar, Advocate

With

92.

OA 1812/2019 with MA 2694/2019

Maj Saurav Negi (Retd.)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. SS Pandey, Advocate
For Respondents	:	Ms. Jayotsna Kaushik, Advocate

CORAM

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

O R D E R
28.08.2024

Having heard learned counsel for the applicant at some length, we find that counsel for the applicant at the time of arguments invites our attention to the policy placed on record issued by the Military Secretary's Branch, Army Headquarters on 22.11.2001 pertaining to PMR and resignation from service in respect of Army Officers excluding AMC, ADC and MIS. Shri Pandey invites our attention to clause 8 of the said letter wherein certain definitions are indicated and in clause 11, the definition of resignation has been stipulated. It is the argument of Shri Pandey,

learned counsel for the applicant that the MS Branch can only issue instructions and guidelines based on rules and regulations already existing and it does not have any power to define what is resignation, how it should be processed and what are the advantages and disadvantages attached to a person seeking resignation. It is the contention of the learned counsel for the applicant that the condition of service attached to resignation and the stipulation with regard to the same can be laid down only by the MoD or the competent authority and there is no delegation or authority vested with the MS Branch to define resignation and stipulate the conditions attached to such resignation. As he has questioned the competence of the MS Branch to define resignation laid down the stipulation with regard to the consequences of resignation, it is necessary for us to examine as to under what authority and under what power the MS Branch has issued the instructions as contained in the Policy letter dated 22.11.2001 particularly in the matter of defining resignation in Para 11 of the said letter.

Shri Pandey in support of his contention invites our attention to an information received under the Right to Information Act by one Shri Dheeraj Bhargav in the matter of powers available with the MS Branch and argues that the only power available with the MS Branch wherein it is stipulated that the subject of power delegated to the Military Secretary is with

regard to PMR of Officers up to the rank of Brig on all grounds and therefore he says that it is beyond the power delegated to the Military Secretary to make a stipulation with regard to the definition of resignation and conditions attached thereto and its acceptance etc. We therefore direct the respondents to clarify the position and indicate to us within four weeks the powers available with the MS Branch in the matter of issuing the policy dated 22.11.2001 and the stipulations particularly with regard to resignation.

List the matter on **09.10.2024** as part heard.

‘DASTI’.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

/sm/