

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

O.A. No.460/10

Ex. Sep. Ram Kishan

.....Petitioner

Versus

Union of Indian & Ors.

.....Respondents

For petitioner: Sh. S.M. Hooda, Advocate

For respondent: Sh. Ankur Chibber, Advocate

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER
01.12.2010**

Petitioner by this petition prays broad bonding of the disability pension as per the 7.2 of the Government of India order dated 31 January 2001. The reply has been filed by respondent. The respondent has pointed out that the petitioner has filed earlier Writ Petition in Delhi High Court CWP No 7423 of 2006 for computation of disability pension from 20% to 50% with reference to 7.2 of the Government of India order dated 31 Jan 2001. The High Court first decided the petition in favour the applicant on 27 July 2006. The Hon'ble High Court directed to pay pension at the rate of 50 % w.e.f. 1.1.96 onwards after due scrutiny, a Review petition was filed by Union of India, Review Petition No. 139 of 2007. The Review petition was allowed and writ petition filed by the Petitioner in W.P.(C) No. 7423 of 2006 was dismissed by the Hon'ble Delhi High Court. The petitioner has again filed the same petition without disclosing of filing of earlier writ petition which was dismissed by Hon'ble Delhi High Court. The petition is under obligation to disclose, as the petitioner has given certificate that he had not previously filed any application, writ or suit regarding matter in

respect of which this application is made before any court or any authority or any other court or Tribunal nor such application, writ petition or suit pending before any of them. Petitioner had played a fraud with the court and he deliberately did not disclose this action for filing wrong affidavit. The petitioner is deserved to be prosecuted. It was equally duty of the counsel who has drafted the petition under his guidance to have made relevant queries and discussed the true and correct facts of the petition. The petitioner and the counsel are both guilty of making fraud with the court without disclosing the relevant facts. We did not want to prosecute the petitioner because he may be poor soldier from the services, but we cannot condone conduct of the counsel he should have properly advised. We strongly condemn this kind of practice and settle costs of Rs. 1,000 against the petitioner. He shall deposit the costs in the court within one month time failing which he will be prosecuted. The Petition is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
December01, 2010