

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

68.

OA 433/2018

Ex Rect Dande Dipak Pramod Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Ms. Archana Ramesh, Advocate
For Respondents : Mr. Arvind Patel, Advocate for R 1-4
Ms. Anjali Vohra, Advocate for R-5

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
16.05.2024

OA 433/2018

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, this OA was filed in the year 2018 by Late Rect Dande Dipak Pramod and at the time of filing of this OA, the prayer made in Para 8 reads as under:

"A. Issue directions to the Respondents to quash and set aside the Mahar Regiment Records Letter dated 17 Jan 2017 placed as Annexure A - 1 as also to hold a Review Medical Board for the Applicant in terms of Para 143 of the Defence Services Regulations of the Army placed as Annexure A - 4 either at Army Hospital (Research and Referral) Delhi Cantt or at Base Hospital Delhi Cantt so that if found medically FIT the Applicant could be re enrolled back in service in the light of the Judgments passed by the Hon'ble Armed Forces Tribunal, Principal Bench placed

herein as Annexure A - 6 (Colly) to meet the ends of justice and fairplay;

B. Issue directions to the Respondents to grant Disability Pension to the Applicant in the light of the Judgment of the Hon'ble Supreme Court in the landmark Judgment and reported case law of Re Dharamvir Singh Vs Union of India dated 02 July 2013 as also proportionate AGIF benefits to meet the ends of equity, justice and fairplay;

C. Issue directions to the Respondents to grant LPG Agency to the Applicant if the Disability Pension is quantified more than 20% as per the rules of the subject placed as Annexure A - 8.

D. Pass such other and further orders/directions to the Respondents for adequate compensation as may be deemed just and proper by the Hon'ble Armed Forces Tribunal in the attendant genuine circumstances of the case."

2. During the pendency of the matter, late Rect Dande Dipak Pramod expired on 18.10.2020 and, therefore, his mother claiming to be the legal heir, namely, Smt. Usha Pramod Dande filed MA 190/2021 for bringing the legal heir on record. By an order passed by this Tribunal on 04.01.2023, the applicant in the aforesaid MA, namely, Smt. Usha Pramod Dande, was directed to file an affidavit of the other legal heirs indicating that they have no objections. This was filed in MA 507/2023 and by a detailed order passed in MA 507/2023 on 21.02.2023 the legal heirs have been brought on record.

3. Keeping in view the aforesaid, now the issue is as to what relief can be granted in this OA after the death of the original applicant, late Rect Dande Dipak Pramod.

4. During the course of hearing today, learned counsel for the applicant fairly admitted that now in view of the death of the original applicant, re-instatement/re-enrollment of the said applicant and the prayer to that effect has been rendered infructuous and redundant and she does not press the same. Accordingly, she sought for withdrawing of prayer clause 8 (A), (C) and (D), the same is allowed. Thereafter, learned counsel invited our attention to the counter affidavit filed by the AGIF (respondent No.5) particularly Para 9 wherein, the AGIF have made the following averments which is reproduced herein below:

“9. The Answering Respondent had not received disability benefits claim documents from Records the Mahar Regiment. However, on receipt of the copy of present OA, the Answering Respondent has approached Records the Mahar Regiment to submit disability benefit claim documents of the Applicant for examining whether the Applicant is eligible for the grant of disability benefits under disability benefit scheme of AGI. The same have now been received by the Answering Respondent from Records the Mahar Regiment on 21 Mar 2018. As per existing rules and regulations of AGIF, the Applicant is found eligible for disability benefit for 30% disability as assessed by the IMB, but the claim could not be processed for payment due to legal implication. Therefore, disability benefits will be paid to the Applicant on finalisation of the present OA or as per

direction of this Hon'ble Court. However, if as per prayer A the Applicant is re-enrolled in service, he will not be eligible for grant of disability benefit under disability benefit scheme of AGI."

5. From the aforesaid submission made before us in the affidavit of AGIF, it is clear that as per existing rules and regulations, late Rect Dande Dipak Pramod, is found eligible for AGIF disability benefits for 30% disability as assessed by the IMB and it is indicated in the affidavit that the disability benefit of AGIF could not be paid due to pendency of this OA and the claim of the applicant for re-instatement/re-enrollment. It is stated that if these claims are given up, the disability benefits of the AGIF as detailed in Para 9 would be paid.

6. Accordingly, considering the fact that prayer clause 8 (A), (C) and (D) have been withdrawn and a submission made by the AGIF in Para 9 of their counter affidavit as reproduced hereinabove, there is no reason as to why the direction in the matter of payment of disability pension of AGIF @ 30% to the surviving legal heir of the original applicant, i.e., the applicant now, namely, Smt. Usha Pramod Dande should not be granted.

7. Therefore, we allow this OA in part and direct that the disability benefit of 30% as applicable and governed by the

existing rules and regulations of AGIF be paid to the surviving applicant herein, namely, Smt. Usha Pramod Dande within a period of three months on the applicant submitting requisite documents in this regard.

8. With the aforesaid, the OA stands disposed of.

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[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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