

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O.A.No.6 of 2012

TUESDAY, THE 17TH DAY OF JANUARY, 2012/27TH POUSHA, 1933

CORAM:

HON'BLE MR. JUSTICE JANARDAN SAHAI, MEMBER (J)
HON'BLE LT. GEN. THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

C.M.SIVASANKAR, AGED 74 YEARS
No.223835 'L' EX JUNIOR WARRANT OFFICER
OF INDIAN AIR FORCE
"OASIS", KERALASSERY P.O
PALAKKAD DISTRICT
KERALA - 678 641.

APPLICANT

BY ADV. SRI.V.K.SATHYANATHAN

VERSUS

1. UNION OF INDIA, REP. BY ITS SECRETARY,
MINISTRY OF DEFENCE
SOUTH BLOCK, NEW DELHI.
2. THE CHIEF OF THE AIR STAFF
AIR HEAD QUARTERS (VAYU BHAVAN),
RAFI MARG
NEW DELHI - 11.
3. THE AIR OFFICER COMMANDING
AIR FORCE RECORD OFFICE
SUBROTO PARK
NEW DELHI - 110 010.

RESPONDENTS

BY ADV. SRI.K.M.JAMALUDEEN, SR. PANEL COUNSEL.

ORDER

Janardan Sahai, Member (J)

The applicant joined the Indian Air Force on 6/6/1956 in the

Clerical cadre. It appears that he was re-mustered on 3/2/1964 to the trade "Instrument Repairer (Fitter II)". He was promoted as Sergeant on 11/4/1977 in the Instrument Repairer trade. He was later on promoted as Junior Warrant Officer in the new trade and the applicant after completing his term of engagement was discharged on 30th June, 1983. The applicant has filed the present O.A. praying that his promotion in the rank of Sergeant which was made in the year 1977 should be given retrospective effect. According to the counsel for the applicant, the juniors of the applicant in the original trade had been granted promotions as Sergeant about 10 years before the applicant.

2. The present O.A. has been filed after a delay of about more than 27 years. An application for condoning the delay has been filed by the applicant, in which, he has stated that he had made certain representations, but the issue was not considered by the authorities in its correct perspective. The applicant has also stated that he could not seek legal redress earlier as there was no proper forum available to challenge the service norms in the Armed Forces.

3. An objection to the delay condonation application has

been filed by the respondents. In para 5 of their objection the respondents have stated that the applicant's representation before the Defence Minister was answered vide Annexure A-10 dated 12/11/2007, in which it is stated that it is not feasible to reconsider the issue after the lapse of 30 years. The respondents have alleged that the delay is due to deliberate laches and negligence on the part of the applicant. In para 4 of their reply to the delay condonation application the respondents have stated that the entire service records relating to the applicant were destroyed on expiry of stipulated 25 years of retention and only limited information is available in the form of Long Roll.

4. We have heard the learned counsel for the applicant as well as the learned Senior Panel counsel. In our opinion, the delay has not been sufficiently explained by the applicant. The applicant, no doubt, in his application for condonation of delay has stated that he preferred certain representations, but he has not annexed copies of any such representations nor other particulars thereof. The only papers upon which counsel for the applicant placed reliance in support of his contention regarding submission of representation is letter dated 10th December 1975 of the Commanding Officer, 19 Wing, Air Force forwarding his

application for interview with the AOC-in-C, Eastern Air Command and a subsequent application by Mrs.Radha Shankar, the applicant's wife dated 8th January, 1980 addressed to the Air Chief Marshal. The applicant was discharged way back in the year 1983 and between that date and the submission of his representation to the Defence Minister in 2007, the applicant did not pursue the matter at all. On the facts of this case, therefore it appears that the long delay in filing the O.A. has not been explained sufficiently.

In the circumstances, we do not find any ground to condone the delay. The delay condonation application is rejected and consequently the O.A. is dismissed.

Sd/-
LT.GEN.THOMAS MATHEW
MEMBER (A)

Sd/-
JUSTICE JANARDAN SAHAI
MEMBER (J)

mds/

(True copy)

Private Secretary