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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.1387/91

Date of decision: 12th Oct. 92

Sh.A.P.Jain

...

Applicant

versus

Union of India through
Secretary,
Ministry of Defence,
New Delhi.

...

Respondents

CORAM: HON'BLE SH.T.S.OBEROI, MEMBER(J)
HON'BLE SH.P.C.JAIN, MEMBER(A)

For the Applicant

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Sh.Shyam Moorjani,
Counsel.

For the Respondents

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Mrs.Raj Kumari Chopra,
Counsel.

1. Whether local reporters may be allowed to see the judgement? *Yes*.
2. To be referred to the reporter or not? *Yes*.

JUDGEMENT

(DELIVERED BY HON'BLE SH.T.S.OBEROI,
MEMBER(J))

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, a retired Engineer of the Military Engineering Service (MES, for short), has sought the following reliefs:-

" (A) To declare the applicant to have retired from service with effect from 22.1.1990.

(B) To direct the respondents to grant Special Disability Leave under Rule 45 of CCS (Leave) Rules, 1972 for the period 25.9.89 to 16.1.90 the Applicant remained under treatment on account of injuries sustained by him while on duty and consequential benefits like pay and allowances etc.

(C) To direct respondents to pay interest to the Applicant on the payments due to consequential benefits at the rate of 18 per cent per annum from the date of accrual till payment by the respondents.

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D. Award the costs of these proceedings.

E. Such other and further orders as this Hon'ble Tribunal may deem fit and proper under the circumstances of this case, be also passed."

2. The applicant's case briefly is that while on duty to an outstation, he incurred an injury, necessitating his absence from duty, duly supported with medical certificates, and prayed that hence/special disability leave as per provisions contained in Rules 44 & 45 of the Central Civil Services(Leave) Rules, 1972 be granted to him. He also requested that since he had applied for pre-mature retirement from 30.9.89 but due to his above-mentioned accident necessitating his absence on medical grounds, his pre-mature retirement may be taken as effective from 22.1.90, instead of as earlier applied for with effect from 30.9.89. His further contention is that his request for deferring his pre-mature retirement to the date of his being declared fit to resume duty, was duly conveyed before the advent of the date of 30.9.89, and also the acceptance of the pre-mature retirement having not been conveyed to him before that date, his request was within the framework of rules, and be accordingly granted. He has also claimed arrears of pay and allowances etc, with interest at the rate of 18% per annum till the date of payment.

[Signature]

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3. In the counter filed on behalf of the respondents, the applicant's case has been opposed. It is averred on behalf of the respondents that earlier in OA No.903/91 decided on 3.4.92, by a Single Member Bench, comprising Hon'ble Sh.S.P. Mukerji, Vice Chairman(A), the same reliefs had been claimed by the applicant, and orders passed thereon, deciding the said OA. It was thus emphasised by the respondents that the present OA has become infructuous, and deserves to be disposed of, as such.

4. We have heard the learned counsel for both the parties and have perused the material on record.

5. While deciding OA No.903/91 filed by the applicant, claiming his pre-mature retirement to be effective from 22.1.90, besides leave on medical grounds for the period he had not been able to attend to his duties, on account of the accident suffered by him, while on duty, para 8 thereof, wherein the reliefs granted to the applicant were summed up, is reproduced as under:-

" In the conspectus of facts and circumstances I allow the application to the extent of setting aside the impugned order dated 22.1.90 at Annexure A.10 along with its enclosure dated 18.1.90 at Annexure.A.11 along with E-in-C's Note dated 22.9.89 and declare that the applicant had retired from service with effect from 22.1.90 with all consequential benefits. I also direct that the period between 1.10.89 till

22.1.90 be covered by grant of such leave with or without pay as was admissible to the applicant. I also direct that the applicant should be paid pension and retirement benefits within a period of three months from the date of communication of this judgement along with 12 per cent interest from 22.4.1990 (three months after his date of retirement) till the date of actual payment. There will be no order as to costs."

6. In view of the decision reproduced as above, and subject to any review or appeal filed, if any, and orders thereon, if any, by the competent courts, we are of the view that the present OA no more calls for any further orders, on the reliefs claimed by the applicant. The OA is disposed of on the above lines with no order as to costs.

C.C. 12/10/92
(P.C.JAIN)
MEMBER(A)

Done 12/10/92
(T.S.OBEROI)
MEMBER(J)