

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING: INDORE

Original Application No.201/00825/2016

Indore, this Wednesday, the 13th day of December, 2017

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Vithal Suratwale S/o Late Shri Niwruti Suratwale,
Age: 56 years, Occupation-Service,
R/o37 B, Diamond Colony, Dhar Naka,
Mhow, District Indore (MP)-453441
(By Advocate –Shri Vaibhav Asawa) **-Applicant**

V e r s u s

1. Union of India, Through Secretary,
Ministry of Defence, New Delhi, Pin-110011
2. Dte. Gen of Military Training (MT-7),
General Staff Branch, Integrated HQ of Min of Def (Army),
'A' Wing Sena Bhawan,
New Delhi, Pin-110011
3. The Controller of Defence Accounts, Ridge Road,
Jabalpur Cantt. Jabalpur (MP), Pin-482001
4. The Commandant, Infantry School,
Mhow. Mhow Cantt. (MP), Pin-453441
(By Advocate –Shri Kshitij Vyas) **- Respondents**

O R D E R (Oral)

By Navin Tandon, AM.-

Learned counsel for both the sides submits that this matter is exactly similar with Original Application No.201/00208/2015 dated 12.01.2016. For information Para 4 & 5 may be referred to as follows:-

(4). *But thereafter it appears that vide order dated ASCON-35033 dated 07.08.2013 it is quoted from the DOPT order as follows:*

"It is intimated that after dismissal of SLP in Shri Skariah Thomas case, the matter regarding counting of service rendered by civilians in lieu of combatant was taken up with MoD/DOP&T. After examining the matter, DOP&T has observed that the ad-hoc service rendered by civilians in lieu of combatant would not be counted for the purpose of promotion/grant of ACP/MACP. DOP&T has further stated that only individual cases, where court has granted favourable decision may be implemented."

(5). *Indicating that only if the Court grant such benefits it needed be granted and it can not be unilaterally granted. Once Hon'ble Apex Court in Skariah Thomas case dismissed the SLP, the principle of the combatant also to be eligible to count their service for the ACP has been finalized. Even though the DOPT Circular is not placed before us it will not therefore lie under Law with respect to Article 13 & 14 of the Constitution of India because that order will deny equality of consideration to all other combatant. Therefore the said DOPT order is hereby quashed. There be a mandate issued to the respondents to pay necessary benefits after counting the combatant service as a prior service to all those who are eligible cutting across all parameters without awaiting any other formal order because the DOPT's clarification is against the constitutional process and law and even normal understanding of law.*

2. Therefore, in terms of this order as mentioned above, this Original Application is allowed. The benefits be made available to the applicant within a period of two months next.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member