

Item No.21

07.10.2005

MA 2409/2004

OA 556/2003

Present : Sh. A.K. Trivedi, counsel for applicant
Sh. A.K. Bhardwaj, counsel for respondents

MA 2409/2004

Present MA 2409/2004 has been filed by the respondents stating that they have already decided to give admissible terminal benefits but is seeking direction to PCDA, Allahabad to take necessary action at their end regarding finalization of terminal benefits of husband of applicant within a period of two months. In the prayer clause, it was specifically averted that in compliance to the direction of this Tribunal in OA 556/2003 dated 12.3.2003 "the respondents have already decided to give admissible terminal benefits to applicant." Since the said MA had been lingering on and various orders were passed by this Tribunal including order dated 19.7.2005 as well as detailed order dated 07.9.2005, by the latter order, the Principal CDA was directed to appear in person as nothing had been placed on record either by way of an affidavit as directed on 19.7.2005 nor any document had been produced to indicate as to whether the directions given on 12.3.2003 were complied with or not. In compliance of the aforesaid order dated 07.9.2005, Shri Tara Chand Joshi, Principal CDA, Allahabad is present in Court.

It is contended by Shri A.K. Bhardwaj, learned counsel for respondents that a decision had been taken on 13.5.2005 by the Army Headquarter, New Delhi that since the applicant's husband was not governed by the CCS Extra- Ordinary Pension Rules, the disability pension was not admissible. Shri A.K. Trivedi, learned counsel for applicant, on the other hand, contended that not only applicant has been misled but the Tribunal has also been misled, by taking a

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specific stand by the respondents have already decided to give admissible terminal benefits to applicant.

I have heard both the parties and perused the pleadings including the affidavit dated 07.10.2005. There is no doubt that the respondents had passed an order dated 03.5.2005 declining the applicant's request for grant of disability pension, but the fact remains that vide aforesaid application the respondents made a categorical statement that they have already taken final decision to grant her such benefits. When such were the facts, I am unable to comprehend as to how and why the respondents have taken totally different and apposite decision than to the one, which has been placed on record. It is unfortunate that the respondents have made such a false, baseless and unjustified statement in their proceedings, as noted hereinabove. Be that as it may, the fact remains that the order dated 13.5.2005 remains on record by which applicant's request for disability pension stand rejected. This being the proceedings under Rule 24 no further action can be taken by this Tribunal. If the applicant is aggrieved with the aforesaid order dated 13.5.2005, she would be at liberty to take appropriate steps in accordance with law.

Accordingly MA is disposed of. No costs.



(Mukesh Kumar Gupta)
Member (J)

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