

IN THE HIGH COURT OF DELHI

Date of decision : 7th October, 2004.

VERSUS

UOI & ORS. Respondents
through Mr. Amit Bansal with Ms. Manisha Singh,
Advocates

HON'BLE JUSTICE DR. MUKUNDAKAM SHARMA:
HON'BLE MS. JUSTICE GITA MITTAL.

1. Whether reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

DR. MUKUNDAKAM SHARMA, J (ORAL)

The present writ petition is filed by the petitioner praying for grant of special pension to the petitioner which prayer was rejected by the respondents.

2. The petitioner was enrolled in the Indian Army on 26th April, 1951 as a barber, therefore, the petitioner belongs to non-combatant category of the Indian Army. The petitioner was declared surplus and was discharged from service on 6th July, 1964. After the petitioner was declared surplus and was discharged from service, the petitioner also received gratuity in terms of the provisions of Pension Regulations For The Army, 1961. After receiving and utilising the gratuity the petitioner submitted an

application sometime in 2001 to the army authorities, namely, the respondents, for grant of pro rata pension. The aforesaid prayer of the petitioner was considered by the respondents and the said prayer was rejected by communication dated 16th October, 2001. Being aggrieved by the said order, the petitioner has preferred this petition before this court on which we have heard the learned counsel appearing for the parties.

3. Counsel appearing for the petitioner during the course of his arguments seeks to rely upon the provisions of Regulation 164 which provides that special pension or gratuity may be granted at the discretion of the President to individuals who are transferred to the reserve and are discharged in large numbers in pursuance of Govt. Policy of reducing the strength of establishment of the Armed Forces or of reorganisation which results in disbandment of any unit/formation.

4. The petitioner was admittedly discharged as he was declared surplus by the respondents after rendering 13 years and 71 days of service. Regulation 164 of the Pension Regulations also gives a discretion to the President to pay special pension or gratuity, as the case may be according to the discretion to be exercised by the President.

5. In the present case the competent officer to whom the powers of the President have been conferred recommended only service gratuity to the petitioner. The said services gratuity was also accepted by the petitioner without any demur or protest.

6. So far special gratuity is concerned, it is provided that in order to receive the same a person has to serve for five years or more but less than 15 years. In terms thereto special gratuity was paid to the petitioner.

7. The petitioner also was discharged from service as far back as 1964 and he has approached this court only in the year 2001. There is unexplained delay and laches on the part of the petitioner in approaching this court. In view of inordinate delay and laches also this writ petition cannot be entertained.

8. In any event, it is also explicit from the Pension Regulations that the petitioner was not entitled to receive special pension as he belonged to the non-combatant category and as he did not have any qualifying service as is indicated from the length of actual qualifying service rendered by the petitioner and which is required for receiving such benefit of special pension by a non-combatant staff.

9. Therefore we find no merit in this petition and the petition stands dismissed.

DR. MUKUNDAKAM SHARMA, J

GITA MITTAL, J

OCTOBER 07, 2004

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