

Sankaran Vs. the Oic Records

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Court : Kerala

Decided On : Jul-30-2013

Judge : Honourable Mr.Justice Thottathil B.Radhakrishnan

Appellant : Sankaran

Respondent : The Oic Records

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH TUESDAY,THE 30TH DAY OF JULY2013/8TH SRAVANA, 1935 OP(AFT).No. 2616 of 2013 (Z) ----- AGAINST THE ORDER IN OA 150/2010 of ARMED FORCES TRIBUNAL,REGIONAL BENCH,KOCHI ----- PETITIONER/APPLICANT:-: ----- NO.10357175 EX NK K.M.SANKARAN, S/O.LATE CHATHUKUTTY NAMBIAR, AGED 6 YEARS, KELOTH MEETHAL HOUSE, THANDORAPARA, KOZHIKODE, PIN

526. BY ADV. SRI.R.SREERAJ RESPONDENTS/RESPONDENTS:-: ----- 1. THE OIC RECORDS, RAKSHA SURAKSHA CORPS ABHILEKH, DEFENCE SECURITY CORPS RECORDS, MILL ROAD KANNUR

013.

2. AG, ADDL DTE GEN PERSONNEL SERVICES, ADJUTANT GENERAL'S BRANCH, INTEGRATED HEAD QUARTERS OF MINISTRY OF DEFENCE (ARMY), DHQ PO: NEW DELHI

011.

3. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, GOVERNMENT OF INDIA, MINISTRY OF DEFENCE, NEW DELHI

011. BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA THIS OP (ARMED FORCES TRIBUNAL - ART.227) HAVING COME UP FOR ADMISSION ON 30-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PJ OP(AFT).No. 2616 of 2013 (Z) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1. TRUE COPY OF THE ORDER DATED 23 11.2012 IN OA 150/2010 ON THE FILE OF THE HON'BLE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI. EXHIBIT P2. TRUE COPY OF THE OA 150/2010 ON THE FILE OF THE HON'BLE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI. EXHIBIT P3. TRUE COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS IN OA 150/2010 ON THE FILE OF THE HON'BLE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI. RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ THOTTATHIL B.RADHAKRISHNAN & BABU MATHEW P.JOSEPH, JJ.

..... OP(AFT) No.2616 of 2013
..... Dated this the 30th day of July, 2013.

JUDGMENT

Thottathil B.Radhakrishnan, J.

The Medical Board including the Appeal Board came to the opinion that the petitioner before us suffered a situation, which is an immunologically mediated disorder, and hence, not attributable to military service. The said appellate opinion has been rendered jointly by the Senior Consultant (Medicine), Senior Consultant (Surgery) and the Director General of Health Services (Armed Forces). The Armed

Forces Tribunal (AFT) did not come to the aid of the petitioner's plea that he was entitled to disability pension. In our view, the learned Tribunal has rightly relied on the precedents referred to in paragraph No.6 of the impugned order to conclude that the opinion of the Medical Board should be given due weight, value and credence. The Tribunal was justified in stating that this is OP(AFT) 2616/13 -2- not a case where there is any material on record to controvert the opinion of the Release Medical Board as also the Appeal Medical Board. The Tribunal could not, therefore, take a contrary view. While the learned counsel for the petitioner says that the decision of the Medical Board should be made after weighing all aspects of the matter and ought to be expressed in layman's language, what we have read above is something quite understandable to a layman, who needs to know the contents of such an opinion. That apart, the Tribunal has also noted that the petitioner was not invalidated and discharged on medical ground of disability, but he retired in due course on attaining the age of superannuation or on completion of terms of engagement. While the petitioner's learned counsel points out that even according to the establishment, but for the disability noted, the petitioner could have been permitted to continue for another two years, that was not the subject matter of the Original Application before the AFT, from which this matter arises. The pointed requirement of the petitioner was, to be awarded disability pension. We do not find any error of law or jurisdictional infirmity OP(AFT) 2616/13 -3- in the Tribunal having not found its way to come to the aid of the petitioner. This original petition, therefore, fails. In the result, this original petition is dismissed in limine. (THOTTATHIL B.RADHAKRISHNAN, JUDGE) (BABU MATHEW P. JOSEPH, JUDGE) jg

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