

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS.6497-6498 OF 2010

HARIDWAR PRASAD

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

Heard Mr.R.P.Goyal, learned advocate on record along with Mr.S.M. Dalal, learned counsel for the appellant and Mr.R. Balasubramanian and Mr.S.N.Terdal, learned counsel for the respondent.

The present appeals depict a picture which possibly the Armed Forces Tribunal while passing the impugned order could not have thought of. We are inclined to think so inasmuch as in paragraph 7 of the impugned order the ultimate conclusion arrived at in summary court martial proceedings has been held to be illegal but while granting relief it directed that the appellant shall be deemed to have been discharged from service from the date of dismissal.

Learned counsel for the appellant would submit that

by such an order he would not get any pensionary benefits. We have been apprised that the appellant has put in 9 years of service and hence, is not entitled to pension. Once the order of summary court martial was set aside on merits due to lack of evidence it was obligatory on the part of the tribunal to pass an appropriate order relating to grant of adequate reliefs. Learned counsel for the appellant had fairly submitted that the tribunal could have notionally reinstated the appellant from the date of dismissal so that he would have been able to get the pension on completion of 15 years.

Be it noted, 15 years of service is required for the qualifying service for getting the benefit of pension. Mr.R.Balasubramanian and Mr.S.N.Terdal, learned counsel appearing for the respondents do not dispute the said position.

In view of the aforesaid, we partly allow these appeals, modify the order of the tribunal by directing that the appellant shall be deemed to have been notionally reinstated and would be discharged on completion of 15 years of service so that he would get the benefit of pension and other retiral benefits. Needless to say that when there is notional reinstatement it shall not entitle the appellant to claim any back

wages. The arrears of pension would be computed within a period of three months and paid to the appellant as per statutory provisions. No order as to costs.

.....J.
(DIPAK MISRA)

.....J.
(A.M. KHANWILKAR)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;
2nd MARCH, 2017.

ITEM NO.106

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).6497-6498/2010

HARIDWAR PRASAD

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 02/03/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)

Mr. S.M. Dalal, Adv.
Mr. R.P. Goyal, Adv.

For Respondent(s)

Ms. Alka Agrawal, Adv.
Mrs. Anil Katiyar, Adv.
Mr. M.K. Maroria, Adv.
Mr. M. Khairati, Adv.
Mr. S.N. Terdal, Adv.
Mr. R. Balasubramanian, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The civil appeals are partly allowed in terms of signed order.

(Ashok Raj Singh)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed in the file)