

ITEM NO.1

COURT NO.7

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL D.NO(s). 5404 OF 2012
(For Prel. Hearing)

UNION OF INDIA & ORS.

Appellant (s)

VERSUS

RAJESH KUMAR SHARMA Respondent(s)
(With appln(s) for condonation of delay in filing appeal.

Date: 04/04/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr. Rohinton F. Nariman, S.G.
Mr. Ritin Rai, Adv.
Mr. Siddhartha Jha, Adv.
Mr. Farrukh Rasheed, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent(s)

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

The Armed Forces Tribunal upheld the respondent's claim for disability pension, even though he was discharged only on completion of his term of engagement. For upholding the respondent's claim, the Tribunal has relied upon one of its earlier decisions in the case of Lt. General Vijay Oberoi (O.A. No.329/2010). In the appeal filed against the Tribunal's decision in the case of Lt. General Vijay Oberoi, notice was issued on February 17, 2012.

Normally, therefore, there should have been no
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difficulty in issuing notice in this appeal as well.

But, the difficulty is that the appeal has been filed after a delay of 439 days. What worries the Court

even more is that this is not an isolated case.

There is hardly a case coming to this Court as appeal filed by the Ministry of Defence against the order of the Armed forces Tribunal that is filed within time.

A very large majority of cases are filed after a

delay of about one year or even over one year and all those cases are liable to be dismissed as barred by limitation. Hitherto, this Court has been taking a more than liberal view on the issue of limitation and entertaining appeals which are filed after inordinate delay and there being no satisfactory explanation for the delay. But this unsatisfactory practice must now stop.

In the afore-mentioned circumstances, we direct Col.P.P.Duggal, Director(Pers), Directorate General of Mechanised Infantry, Integrated Headquarters of Ministry of Defence, New Delhi, to file an affidavit explaining to the Court the procedure of filing appeals before the Court and also to inform the Court what steps are proposed to be taken for immediate rectification of the filing procedure. The affidavit must be filed within four weeks from

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today.

Put up this case along with affidavit after four weeks.

(KUSUM SYAL)
SR. P.A.

(SNEH BALA MEHRA)
COURT MASTER