

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7952 OF 2009

EX. HAV. HANSRAJ SINGH (DEAD) THR. LR. ...Appellant(s)

VERSUS

UNION OF INDIA & ORS. ...Respondent(s)

O R D E R

We have heard Mr. Shesh Datt Sharma, learned counsel appearing for the appellant and Mr. R. S. Suri, learned Additional Solicitor General appearing for the respondents.

This appeal is filed against the order dated 10.07.2008, passed by the High Court of Delhi in W.P.(C) No.16322 of 2004. By the aforesaid order, claim of the appellant for grant of compensation is rejected by the High Court.

The original appellant herein, was enrolled in the Territorial Army on 02.08.1958 and was deployed from time to time. He was discharged from service w.e.f. 02.08.1973. The Government of India, through Ministry of Defence, has introduced Service Pension Scheme with effect from 11.01.1985 to such Territorial Army personnel, who have a minimum qualifying aggregate embodied service of 15 years or more. Though, the appellant was discharged from the service of Territorial Army with effect from 02.08.1973, after introduction of Pension Scheme by the Government, the appellant made a representation for grant of pension on 12.01.1988, and the same was rejected by the respondents on 08.02.1988. In the said rejection,

it was stated that the pension is admissible only for the service personnel who have completed 15 years of embodied service. As the appellant has not put in such minimum qualifying service, the respondents rejected the same. Subsequently, the appellant has made further representations in the year 1989 and 1991. By making further representation on 17.11.2003, by inviting a rejection order again on 20.12.2003, the appellant has filed writ petition in the year 2004.

Mainly, it is the case of the appellant that as per the discharge certificate issued by the Authorities on 13.08.1973, he has put in 15 years of embodied service, as such, he is entitled for grant of pension. On behalf of the respondents, Counter Affidavit is filed, denying various allegations and categorically stating that the appellant had rendered only 8 years 11 months and 6 days of qualifying aggregate embodied service in Territorial Army, as such, appellant is not entitled for pension as per the Scheme introduced by the Government of India. It is also stated that the original records were destroyed on 01.01.1999 and copy of extract is placed on record along with Additional Affidavit as Annexure "A-1".

Though the appellant was discharged on 02.08.1973, after introduction of Pension Scheme, he started making representations from 12.01.1988. By making a series of representations, belatedly, writ petition was filed in the year 2004. The appellant has not produced copy of the original Discharge Certificate. In the extract of the Discharge Certificate filed by the respondents along with Affidavit in Annexure "A-1", it is clearly mentioned that the appellant has put in only 8 years 11 months and 6 days of embodied

service. In view of such material placed by the respondents, there is no reason to doubt the authenticity of extract produced by the respondents. It is also clear from the Affidavit that as per the Regulations, the records were destroyed after 25 years. Further, the appellant has not produced original Discharge Certificate, at any point of time. In view of the stand of the respondents and in absence of unexplained delay and laches on the part of the appellant, the appellant is not entitled for any relief. Accordingly, this Civil Appeal is dismissed, with no order as to costs.

.....J.
[R. SUBHASH REDDY]

.....J.
[HRISHIKESH ROY]

NEW DELHI;
SEPTEMBER 28th, 2021

ITEM NO.102

COURT NO.12

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 7952/2009

EX. HAV. HANSRAJ SINGH (DEAD)THR. LR

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 28-09-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. Shesh Datt Sharma, Adv.
Mr. Vijay Kumar, AOR

For Respondent(s) Mr. R.S. Suri, ASG
Mr. Nachiketa Joshi, Adv.
Mr. Divyansh H. Rathi, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Tejas Patel, Adv.
Mr. Arvind Kumar Sharma, AOR

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

The appeal is dismissed in terms of signed order.

(NEETA SAPRA)
COURT MASTER (SH)
(Signed order is placed on the file)

(RAM SUBHAG SINGH)
BRANCH OFFICER