

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.1 OF 2017

IN

CIVIL APPEAL NO. _____ OF 2017
(D. NO.369/2017)

Union of India & Ors.

... Appellants

versus

Manoj Kumar

... Respondent

WITH

I.A. NO.1/2017 IN CIVIL APPEAL NOS. _____ OF 2017
(D. Nos.466, 468, 633, 1291 & 465/2017)

AND

I.A. NOS.1-2/2017 IN CIVIL APPEAL NO. _____ OF 2017
(D. No.864/2017)

O R D E R

I.A.NO.1/2017 in CA _____ of 2017 (D No. 369/2017)

Leave to appeal is granted.

Delay condoned.

Admit.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi

in T.A. No.414 of 2010 whereby the Tribunal directed as follows:-

"In view of the above, we set aside the findings and the sentence awarded by the SGCM and find the petitioner not guilty of the charge. We order his reinstatement in service with all consequential benefits thereof."

Regard being had to the nature of the incident and the lapse committed by the respondent, we are inclined to modify the direction issued by the Armed Force Tribunal (PB) at New Delhi by directing that the respondent shall be deemed to have been notionally reinstated for the purpose of pension and gratuity and he shall be entitled to other consequential benefits thereof. Needless to say, when it is a notional reinstatement, there will be no payment of any back wages.

The appeal is disposed of accordingly.

I.A.NO.1/2017 IN CA of 2017 (D 633/2017

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi in T.A. No.414 of 2010 whereby the Tribunal directed as follows:-

"In view of this, we allow the petition and set

aside the order of conviction. However, since he has spent two years in civil prison, he is not to be reinstated. He should be notionally reinstated to make him eligible for pension. However, he is not entitled any back wages except the payment of gratuity and other consequential benefits."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Shudhanshu Pandey, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

I.A.NO.1/2017 IN CA _____ of 2017 (D 466/2017

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi in T.A. No.21 of 2010 whereby the Tribunal directed as follows:-

"In view of this, we allow the petition and set aside the order of conviction. However, since he has spent six months in civil prison, he is not to be reinstated. He should be notionally reinstated to make him eligible for pension. However, he is not entitled any back wages except the payment of gratuity and other consequential benefits."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Shudhanshu Pandey, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

I.A.NO.1-2/2017 IN CA _____ of 2017 (D 864/2017

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New

Delhi in T.A. No.257 of 2010 whereby the Tribunal directed as follows:-

"In view of this, we allow the petition and set aside the order of conviction. However, since he has spent nine months in civil jail in the company of hardened criminals, he shall not be reinstated in service. He shall, however, be entitled to post retirement benefits including pension, gratuity and consequential benefits. In case there is deficiency in the qualifying service of the petitioner, that shall be condoned for purpose of granting pension. However he is not entitled to back wages."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Atul Bandhu, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

I.A.NO.1/2017 IN CA of 2017 (D 468/2017)

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is

finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi in T.A. No.27 of 2010 in WP No.15512 of 2006 along with clarification order dated 7.10.2016 in M.A. No.839/2016 in TA No.27 of 2010 whereby the Tribunal directed as follows:-

"In view of this, we allow the petition and set aside the order of conviction. Since the accused has spent two years in civil prison, we do not recommend his reinstatement. He should be notionally reinstated to complete his pensionable service. However, he is not entitled any back wages except the payment of gratuity and other consequential benefits."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Shudhanshu Pandey, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

I.A.NO.1/2017 IN CA _____ of 2017 (D 1291/2017

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi in T.A. No.464 of 2010 and final order dated 16.2.2015 in T.A. No.464 of 2010 along with clarification order dated 29.07.2016 in M.A. No.447/2016 in TA No.383 of 2010 (Writ Petition (Civil) No.9232/2007) whereby the Tribunal directed as follows:-

"In view of this, we allow the petition and set aside the order of conviction. Since the accused has spent three years in civil prison, he should be notionally reinstated till he reaches his pensionable service. However, he is not entitled any back wages. He would be entitled to the payment of gratuity and other consequential benefits including pension."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Shudhanshu Pandey, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

Leave to appeal is granted.

Admit.

Delay condoned.

On consent of learned counsel for the parties, the matter is finally heard.

The present appeal is directed against the judgment and order dated 16.2.2016 passed by the Armed Force Tribunal (PB) at New Delhi in T.A. No.383 of 2010 in WP No.9232 of 2007 along with clarification order dated 29.07.2016 in M.A. No.447/2016 in TA No.383 of 2010 whereby the Tribunal directed as follows:-

"In view of this, we find that the prosecution has failed to prove the case against the accused. We allow the petition and set aside the order of conviction recorded by the SCM. However, the appellant shall not be reinstated in service. He shall, however, be entitled to post retirement benefits including pension, gratuity and consequential benefits. In case there is any deficiency in the qualifying service of the appellant, he shall be notionally reinstated for the purpose of granting pension. However, he is not entitled to back wages."

Having heard Mr. Maninder Singh, learned Additional Solicitor General along with Mr. R. Balasubramaniam and Mr. Shudhanshu Pandey, learned counsel for the respondent, we are only inclined to modify the order by directing that there had been some lapse on the part of the respondent. However, as the Tribunal has granted notional reinstatement and made the respondent eligible for pension and gratuity and other consequential benefits, the said directions

in that regard remain undisturbed.

The appeal is disposed of accordingly. There shall be no order as to costs.

.....,J.
(Dipak Misra)

.....,J.
(A.M. Khanwilkar)

New Delhi;
February 28, 2017.

ITEM NO.3

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

I.A.NO.1/2017 in Civil Appeal Diary No(s). No(s). 369/2017

UNION OF INDIA AND ORS.

Appellant(s)

VERSUS

MANOJ KUMAR

Respondent(s)

(with appln. (s) for leave to appeal and office report)

WITH

I.A.NO.1/2017 IN C.A. D 466/2017

(With Appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

I.A.NO. 1/2017 IN C.A. D 468/2017

(With Appln.(s) for leave to appeal)

I.A.NO. 1/2017 IN C.A. D 633/2017

(With Appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

I.A.NO.1/2017 IN C.A. D 1291/2017

(With Appln.(s) for leave to appeal and Office Report)

I.A.NO.1/2017 IN C.A. D 465/2017

(With Appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

I.A.NO.1-2/2017 IN C.A. D 864/2017

(With Appln.(s) for leave to appeal and Office Report)

Date : 28/02/2017 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s) Mr. Maninder Singh, ASG
Mr. Nalin Kohli, Adv.
Col. R. Balasubramanian, Adv.
Mr. Santosh Kumar, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Ankit Roy, Adv.
Mr. Pranav Kumar, Adv.
Mr. Mukesh Kumar Maroria, Adv.

For Respondent(s) Mr. Rakesh Uttamchandra Upadhyay, Adv.
Ms. Aarti Upadhyay, Adv.

Mr. Shudhanshu Pandey, Adv.
Mr. Sandeep Kumar Jha, Adv.
Mr. Arjun Singh, Adv.

Mr. Atul Bandhu, Adv.
Mr. Sidharth Khatana, Adv.
Mr. Sudhir Naagar, AOR

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

Applications for leave to appeal are granted.

Delay condoned.

Admit.

The appeals are disposed of in terms of the signed order.
There shall be no order as to costs.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)