

Major G.S. Sodhi

Vs

Union of India

Ex-Major Chander Singh

Vs

Union of India and Another

Contempt Petition No. 3 of 1991 In Writ Petition (Crl.) No. 478 of 1989 and Crl. M.P. No. 8905 of 1990 With Writ Petition (Civil) No. 678 of 1991

(S. R. Pandian, K. Jayachandra Reddy JJ)

11.03.1994

JUDGMENT

K. JAYACHANDRA REDDY, J. -

1. Writ Petition (Criminal) No. 478 of 1989 filed by the petitioner Major G.S. Sodhi was dismissed by our order date 30-11-1990. Along with the said writ petition, we also dismissed another Writ Petition (Criminal) No. 525 of 1988 filed by Lt.-Col. S.K. Duggal. Major G.S. Sodhi filed Crl. MP No. 8905 of 1990 in WP (Crl.) No. of 1989 and Lt.-Col. S.K. Duggal filed Crl. MP No. 491 of 1991 in WP (Crl.) No. 525 of 1988 with a common prayer seeking an order for release of their provident fund, gratuity and pension. By our order dated 19-3-1991 we directed the respondent namely Union of India to pay the entire provident fund, gratuity and pension as per the rules to each of them within three months from the date of the said order. On the ground that the said order has not been complied with, Major G.S. Sodhi has filed this contempt petition.

2. We may mention at this stage that the Union of India filed a review petition seeking the review of the order dated 19-3-1991.

3. Learned counsel for the petitioner submits that in spite of the specific orders passed by this Court on 19-3-1991, the respondent has not taken any steps to pay the pension etc. and therefore the present contempt petition has been filed. In the counter-affidavit filed on behalf of the respondent it is stated that pending the above review petition filed by the respondent, the petitioner Major G. S. Sodhi has been paid all his retirement benefits as per the orders of this Court. It is, however, contended by the learned counsel for the respondent that since the direction by this Court is to pay the retirement benefits under the rules, therefore having examined the rules, the authorities concerned took the view that the petitioner is not entitled to the benefits as a matter of right since he was dismissed from service and at any rate the petitioner having not served the period of 20 years fully, was not entitled to pensionary benefits. Reliance is placed on Regulation 25 of Pension Regulation for the Army in this regard. It is also submitted that in view of this legal position, the review petition also was filed and the authorities concerned bona fide felt that the legal position has to be clarified and reviewed regarding the payment of pensionary benefits to the petitioner and

therefore the same has not been paid to the petitioner.

4. Learned counsel for the petitioner, however, submits that these regulations have no legal sanctity for various reasons and a rejoinder to that effect has been filed.

5. Having perused the available records, we are of the view that we need not examine this question in detail. We gave a direction for payment of the retirement benefits following two earlier judgments of this Court. Of course, there also the effect of these regulations has not been considered. This matter has been pending for a number of years. It is also not clear whether the total service of the petitioner has been correctly computed. At this distance of time, we cannot undertake an investigation or order an inquiry whether as a fact the regulations apply to the case of the petitioner on the ground that service of period of 20 years has not actually been completed and that there is some shortage. We once again make it clear that this observation of ours is confined to the facts of this case and cannot be treated as a precedent. However, in view of what has been stated in the counter-affidavit, we do not think that a case of contempt is made out. Therefore the contempt petition is dismissed with no order as to costs. The respondent is directed to pay off the pensionary benefits to the petitioner as early as possible preferably within three months from today.

WP (Civil) No. 678 of 1991

6. This writ petition is filed by ex-Major Chander Singh who has been dismissed from service, seeking a direction in the nature of mandamus directing the respondents Union of India and another to release all the pensionary benefits including gratuity etc. to which he claims to be entitled. A counter-affidavit has been filed that in view of the facts of the case, the writ petitioner is not entitled to the retirement benefits as a matter of right. We have not passed so far any order giving such direction as it has been done in CrI. MP No. 8905 of 1990 in WP (CrI.) No. 478 of 1989 - Major G. S. Sodhi v. Union of India. In the counter-affidavit some questions of law also have been raised. Therefore this matter has to be argued. We direct that this matter be posted in usual course.

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