

SUPREME COURT OF INDIA

Pushpa Vanti

Vs.

Union of India

Writ Petition(Civil) No. 291 of 2010

(Markandey Katju and Gyan Sudha Misra JJ.)

15.11.2010

ORDER

1. In this case we had issued notice to the respondents on 17.9.2010 but no counter affidavit has been filed.

2. The petitioner before us in the present case is a widow Pushpa Vanti, whose husband was an army major who had fought in three wars (in 1948, 1962 and 1965) and was decorated with fourteen medals. However, the petitioner is getting only Rs.80/- per month as pension, in these days when a kilogram of arhar dal costs that amount. She has prayed for fixation of her correct pension and arrears.

3. The Indian armed forces are bravely defending the borders of the country, often standing on guard at a height of 20,000 feet and in minus 30oC temperature, day and night so that the people of India can live, work and sleep in peace.

4. However, there is widespread discontent among the serving and former members of the armed forces (by which we mean the Army, Navy and Air Force) and their widows and family members regarding their service conditions e.g. pay scales, allowances, anomalies regarding pensions, inadequate pension (particularly to those disabled while in service), widows benefits, promotion matters (including promotion policy and process) etc.. They have a feeling that the bureaucrats do not care for them and do not properly address their grievances. As a result, thousands of ex- armed forces personnel have returned their medals, and some have even burnt their artificial limbs.

5. These grievances include the grievances relating to pay, allowances, one rank one pension, other pension matters, suitable benefits to be granted to war veterans, war widows, promotion matters, rehabilitation of soldiers who are discharged at a young age, etc.

6. In a recent panel discussion 'We The People' on NDTV channel some of these grievances were highlighted.

7. Our courts of law are flooded with cases relating to members, both serving and retired, of the armed forces e.g. cases relating to pension, promotion, etc and the obvious reason is that the armed forces personnel have a feeling that their grievances are not being properly addressed.

8. The great Prime Minister of Magadha, Chanakya, told Emperor Chandragupta Maurya:

“Pataliputra rests each night in peaceful comfort, O King, secure in the belief that the distant borders of Magadha are inviolate and the interiors are safe and secure, thanks only to the Mauryan Army standing vigil with naked swords and eyes peeled for action, day and night, in weather fair and foul, all eight praharas (i.e. round the clock), quite unmindful of personal discomfort and hardship, all through the year, year after year.

To this man, O Rajadhiraja, you owe a debt: please, therefore, see to it, suo motu, that the soldier continuously gets his dues in every form and respect, be they his needs or his wants, for he is not likely to ask for them himself. The day the soldier has to demand his dues will be a sad day for Magadha; for then, on that day, you will have lost all moral sanction to be king!”

9. Today our ex-soldiers have not only been demanding but are agitating to get their legitimate dues. They were compelled to resort to public protests and even return their War-medals and burn their artificial limbs, as was done by Capt. C.S. Sidhu whose right arm was amputated while serving at the front but was getting a pittance as pension (see judgment of this Court in Union of India & Anr. vs. C.S. Sidhu in Civil Appeal No.4474 of 2005 dated 31st March, 2010). This, in our opinion, is not good for the nation. The armed forces personnel should have a feeling that their grievances are heard by an independent body. Even if some of their demands are not accepted, they will have a feeling that they were given a proper hearing.

10. We, therefore, direct the Central Government to set up within two months from today a Commission which shall be called the Armed Forces Grievances Redressal Commission.

11. This Commission will look into any grievances (sent to them in writing or by e-mail) by serving or former members of the armed forces (i.e. Army, Navy and Air Force) or their widows or family members and make suitable recommendations expeditiously to the Central Government in this connection.

12. The Commission will also frame and recommend to the Central Government a scheme for proper rehabilitation of discharged soldiers. At present the position is that a soldier is ordinarily recruited at the age of about 18 years, and if he does not rise above the rank of Jawan he is discharged after 15 years of service. If he is promoted, his tenure is extended on each promotion. Thus, if he reaches the rank of Havildar but no further he will retire after 22

years of service, i.e. at the age of 40. Thus a soldier is retired when he is in the prime of life. During his service he spends only about 2 months per year with his family. There is no doubt a Resettlement Directorate in the Army Headquarters, but we are informed that it is not a very effective body. If a soldier is discharged between the age of 35-45 how will he support his family ? At that age he is likely to have a wife and children. Hence he should be given alternative employment so that he can support his family. The Commission will go into this matter also in detail and suggest appropriate schemes for rehabilitation of ex-armed forces personnel who are retired at a relatively young age.

13. The aforesaid Commission shall consist of the following members:

“1. A retired Judge of the Supreme Court of India as the Chairman of the Commission.

The first Chairman shall be Hon'ble Mr. Justice Kuldip Singh, former Judge, Supreme Court.

2. A former Chief Justice of the High Court as the Vice Chairman of the Commission. The Vice Chairman will officiate as the Chairman in absence of the Chairman. The first Vice Chairman shall be Hon'ble Mr. Justice S.S. Sodhi, retired Chief Justice of the Allahabad High Court.

3. A retired Chief of Army staff as a Member of the Commission.

We appoint General V.P. Malik, retired Chief of Army staff, to be a Member of the Commission.

4. Any retired Chief or Vice Chief or Deputy Chief of the Army, Navy or Air Force as a Member of the Commission.

In the first Commission we appoint Lt. General Vijay Oberoi, retired Vice Chief of Army Staff, to be a Member of the Commission (General Oberoi is the Douglas Bader of the Indian Armed Forces, his one foot having been shot and later amputated due to a burst of machine gun fire in the 1965 Indo-Pak war, when he was a young Captain. Despite this he rose to become a Lt. General and Vice Chief of the Army).

5. A civil servant, whether serving or retired, as a Member of the Commission, to be appointed by the Central Government, at its discretion.”

14. The term of the first Commission will be for two years from the date of its constitution but it will be renewable at the option of the Central Government. The subsequent Commission members (after the two year term of the first Commission has expired) shall be appointed by the Central Government.

15. Since most of the aforesaid members in the first Commission are based in Chandigarh hence we direct that the headquarters of the Commission shall be at Chandigarh. For this purpose a suitable building will be allotted at the earliest at Chandigarh by the Union Territory of Chandigarh in consultation with the Central Government which will be used as the office-cum-secretariat of the Commission.

“This building must have sufficient rooms to provide an office for each member of the Commission. The Central Government will allot adequate secretarial and other staff and infrastructure and equipment (including computers, telephones etc.) for the office and members of the Commission as desired by the Chairman.”

16. In addition to the headquarters of the Commission at Chandigarh there will also be set-up offices of the Commission at Delhi and such other places as the Chairman of the Commission may direct. The Central Government and concerned State Governments/Union Territories will provide the necessary staff and infrastructure as the Chairman may direct for this purpose.

17. All the members of the Commission shall sit together whenever issues of general importance are to be considered. However, in any matter relating to individuals or a few persons only the Chairman can appoint a smaller Committee consisting of one or more members as he decides.

18. The first four members of the Commission will be given the same salaries, benefits and allowances which they were getting on the last day when they were in service. They will also be given traveling and such other allowances as the Chairman decides if they have to travel to other places away from Chandigarh. The fifth member, if a retired person, will also get the same.

19. We make it clear that this Commission is different from the Armed Forces Tribunal in the following ways:

“1. The Commission is only a recommendatory body and not an adjudicatory body. Hence it is open to the Central Government to accept or not to accept its recommendations, though of course since such recommendations will be coming from a high powered body the Central Government must give due weight to the same.

2. Whereas the Armed Forces Tribunal can only decide cases in accordance with the rules, the Commission can recommend even change of the rules where it feels that the same are defective or inadequate. In other words, the Commission is not confined to following the relevant rules relating to service conditions, pension, etc. but it can recommend change of the same where it feels that the same are defective or inadequate.”

20. We further direct all authorities in India, Civil or Military (including the Secretary, Defence, Union of India, and the Chiefs of the Army, Navy and Air Staffs) to extend all cooperation to the Commission to enable it to discharge its functions effectively.

21. The notification constituting the Commission as provided above will be issued by the Central government forthwith.

22. The claim of the petitioner in this case shall stand referred to the Commission. The Registry of this Court shall send copies of the papers of this case forthwith to the members of the Commission nominated by us, and the petitioner's claim shall be considered expeditiously. Claims of other armed forces personnel (serving or retired) should also be considered expeditiously.

23. List this case again on 7.2.2011.