
(2020) 06 J&K CK 0067
In the Jammu And Kashmir High Court
Case No : SWP No. 2734 Of 2002

Kartar Singh Padwal

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 29-06-2020

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 14

Citation : (2020) 06 J&K CK 0067

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Vishal Sharma

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J

1. The petitioner has filed the present petition praying for the following reliefs:-

"i) Writ of Certiorari deleting paras 3 and 4 from D.G.NCC's letters No. NCC/11757/NCC, HQ/438/MS/B dated 21.10.2002 addressed to the office of the PCDA(P) Allahabad with copy among others, to the petitioner which contained illegal and unwarranted directions based on misinterpretation of the Hon'ble Court order for early processing of case of recovery of interest from petitioner already paid to him on the pensionary benefits."

2. It is claimed that the petitioner has served the NCC for more than 27 years in different capacities. He became due for promotion as Lt. Col. in the year 1985. He fulfilled all the eligibilities and his case amongst others was considered by the DPC in the year 1985, but the recommendation of the promotion board was kept in a sealed cover on the ground that some disciplinary case was pending against him. Feeling aggrieved thereof, he agitated the matter before the Central Administrative Tribunal (CAT) and the CAT directed for completion of disciplinary proceedings against the petitioner. The matter got in future litigation. Ultimately, the petitioner had to file SWP No. 1439/1996 before this Court, which came to be

disposed of vide order dated 19.07.2000 with a direction that the consequential benefits in view of the earlier judgment of this Court duly affirmed by the Division Bench in LPA No. 632/1999 be given to the petitioner. Interest "6% per annum was also granted. The official respondents filed an LPA bearing LPA(SW) No. 383/2000 which was allowed vide order dated 19.02.2002 and set aside that part of the judgment of the learned Single Bench to the extent of granting of 6% per annum interest. After the modification of the order by the Division Bench, the matter was again looked into by the Single Bench in a review petition on 26.03.2002. Now the respondents have issued impugned order dated 21.10.2002 for recovery of interest already paid to the petitioner, which is quite illegal, harsh and outcome of misinterpretation of judgments of Hon'ble Court.

3. At the very outset, learned counsel for the respondents submitted that jurisdiction to decide the lis lies with the Armed Forces Tribunal in terms of Section 14 of the Armed Forces Tribunal Act, 2007.

4. Considering the submissions as noticed above, the present petition is transferred to Armed Forces Tribunal, Srinagar Bench at Jammu. The parties are directed to appear before the Bench as and when the same is available.

5. As the petitioner was not represented let a copy of the order be sent by the Registry of this Court to the petitioner and the Tribunal shall issue notice to the petitioner of the date of hearing so fixed.

6. The petition is, accordingly, disposed of.

7. The record of the case be sent to the Tribunal, however, retaining a copy thereof for record.