

(1998) 07 DEL CK 0001
In the Delhi High Court
Case No : CW.No. 130 of 1988

Ranjit Verma (Ex.Major)

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 14-07-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 4 AD 676 : (1998) 74 DLT 632 : (1998) 46 DRJ 264

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Mr. Meet Malhotra, for the Appellant; Major A.K. Vashisht, for the Respondent

Judgement

K. Ramamoorthy, J.—The petitioner, who was working as Major, was cashiered from service by the respondents. On the 27th of November, 1981, a show-cause notice was issued to the petitioner as to why service gratuity and death-cum-gratuity should not be forfeited. On the 23rd of December, 1981, the mother of the petitioner gave the Explanation. On the 15th of July, 1983, the Government of India passed the following order:-

"I am directed to refer to letter No.GI/M/42473, dated the 15th October, 1980 from the Controller of defense Accounts (Pensions), Allahabad, addressed to Army Headquarters and to say that after considering the Explanation dated the 23rd December, 1981 from Smt.Shanta Verma replying on behalf of her son Ex-Major Ranjit Verma (IC-16201) in response to Ministry of defense Memorandum No.B/41057/AG/PS4(c)/2007/A/D/(Pension/Services), dated the 27th November, 1981, and having regard to the circumstances leading to the cashiering of the officer from service, the President in exercise of the powers conferred by Regulations 3 and 22 of Pension Regulations for the Army (1961), Part-I, has been pleased to forfeit the retiring (Service) gratuity and death-cum-retirement gratuity that would have been admissible to Ex.Major Ranjit Varma, had he retired from service in the normal course.

2) This letter issues with the concurrence of the Ministry of Finance (defense) vide their U.O.No.1272/S/Pen of 1983."

2. The power to issue the show-cause notice is not challenged.

3. Mr.Meet Malhotra, the learned counsel for the petitioner, submitted that the petitioner has been suffering from some sort of mental illness which is diagnosed as Sohizophrenia. The petitioner had served the Indian Army without any kind of complaint but owing to his illness, he had to be on leave. According to the learned counsel, Mr.Meet Malhotra,, there is absolutely no justification for the forfeiture of the gratuity. The learned counsel, Mr.Meet Malhotra, relied upon the judgment of the Supreme Court in Major G.S. Sodhi Vs. Union of India (UOI), wherein the Supreme Court, according to him, had directed the respondents therein to pay the entire pension, gratuity and other benefits.

4. Major A.K. Vashisht submitted that on the facts and circumstances of this case, the respondents were justified in passing the order dated the 15th of July, 1983 and he relied upon the judgment of the Supreme Court in "Union of India & Others Vs. Brg.P.K.Dutta (Retd.)" reported in JT 1995 (1) SC 413.

5. In the case of Major G.S.Sodhi, the court martial, while imposing the punishment, did not inflict the punishment of the forfeiture of pension and gratuity and there was no exercise of power by the President as per the regulations. Therefore, the petitioner cannot rely upon the decision of the Supreme Court in Major G.S.Sodhi's case. The order impugned, in my view, does not suffer from any infirmity. There is no error apparent in the impugned order. The writ petition is dismissed.

6. There shall be no orders as to costs.