

(2006) 01 DEL CK 0096
In the Delhi High Court
Case No : Writ Petition (C) 522 of 2006

Vimal Devi	Vs	APPELLANT
Union of India (UOI) and Others		RESPONDENT

Date of Decision : 16-01-2006

Acts Referred:

Citation : (2006) 01 DEL CK 0096

Hon'ble Judges : Mukul Mudgal, J;H.R. Malhotra, J

Bench : Division Bench

Advocate : M.K. Gaur, for the Appellant; Maninder Acharya and Col. K.K. Rai, Party in person, for the Respondent

Judgement

Mukul Mudgal, J.—Rule DB. With the consent of the learned counsel for the parties, the writ petition is taken up for final hearing.

2. The petitioner's claim for special family pension was rejected by 10th December, 2003 by Air defense Artillery Records, Nasik Road Camp. The petitioner who is a widow of Nk Sukhbir Singh, preferred an appeal against the rejection of application for special family pension on the ground that at the time of recruitment, the petitioner was fully fit and reiterated her claim for grant of special family pension. The appeal dated 3rd February, 2004 of the petitioner stood forwarded by the defense Pension Liaison Cell to the Army Headquarter as noted in the letter dated 4th August, 2004. The letter dated 29th January, 2005 issued by Air defense Artillery Records, Nasik Road Camp indicated that the petitioner's appeal was forwarded to the Government of India, Ministry of defense by PCDA, Allahabad by letter dated 29th July, 2004. Even though the said appeal was forwarded to the Ministry of defense on 29th July, 2004, we regret to note that the Ministry of defense has not disposed of the said appeal. This appeal has been preferred by a widow of an Army personnel.

3. As per para 364(d) of defense Services Regulations, the statutory complaint by Army personnel who are subject to Army Act, are also required to be disposed

of within a period of six months. The said para 364(d) reads as follows:-

(d) All statutory complaints will be made through proper channel as given in sub-para (e) below and copies will not be forwarded direct to higher authorities. If the final decision on the statutory complaint is not taken within a period of six months from the date such a complaint is submitted to the immediate superior, the applicant will have a right to represent direct to Army Headquarters or the Central Government as the case may be after informing his commanding officer.

4. In *Ex-Signalman Shri Bhagwan Vs. Union of India (UOI)*, this Court had laid down the following principles of law in respect of the timely disposal of appeals:-

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(5) To the extent possible, the Appellate Authorities should endeavor to dispose of all such appeals pending before them, or filed hereafter, within a period of six months.

5. In several matters, we have been noticing that the appeal preferred by the claimants aggrieved by the rejection of their claim for pension or special family pension are not disposed of within a period of six months stipulated by the Division Bench of this Court in *Shri Bhagwan's case (supra)*. Though we were inclined to award costs in the present case, since the learned counsel for the respondents has assured that the petitioner's appeal shall be disposed of within four weeks from today, we defer the imposition of costs in the present case. However, in several appeals, the appeals preferred by the claimants are not disposed of within six months stipulated by the Division Bench of this Court. As a result of non-disposal thereof, a large number of writ petitions are filed in this Court with the sole prayer that the appeals preferred by the claimants be directed to be disposed of. We are of the view that due to the recalcitrance and uncalled delay in disposal of the said appeals, the petitioners are compelled to come to the Court for seeking directions to the respondent for disposal of their appeals. Accordingly, it is directed that henceforth, the period prescribed in *Shri Bhagwan's case (supra)* shall be strictly complied with. In case any appellant is compelled to approach this Court because of non-disposal of the appeal within six months, the petitioner shall be entitled to pray for costs of litigation occasioned by the non-disposal of the appeal within six months of preferring such appeals.

6. The writ petition accordingly stands disposed of with no orders as to costs.