

AFR
Court No.1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 302 of 2012

Tuesday, this the 09th day of January, 2018

“Hon’ble Mr. Justice D.P. Singh, Member (J)
“Hon’ble Air Marshal BBP, Sinha, Member (A)”

Akhilesh Singh No 14642208X (Ex), son of Shri Rajendra Singh, r/o House No 153, Preet Vihar, Village & Post Utharathia, Raibareilly Road, Lucknow. Applicant

Ld. Counsel for the : **Shri A.K. Pandey, Advocate**
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.
2. COLONEL RECORDS, EME, Secunderabad-500015.
3. ADDITIONAL CDA I/C PAO (ORS) EME, Trimulgherry, Secunderabad-500020.
4. DIRECTOR GENERAL of EME MGO’s Branch, IHQ of MOD (Army), DHQ Post, New Delhi-110105.

...Respondents

Ld. Counsel for the: **Shri D.K. Pandey, Advocate,**
Respondents. Central Govt Standing Counsel.

Assisted by : **Maj Salen Xaxa, OIC Legal Cell.**

ORDER (Oral)

1. We have heard Shri Ajay Kumar Pandey, learned counsel for the applicant and Shri D.K. Pandey, learned counsel for the respondents assisted by Maj Salen Xaxa, OIC, Legal Cell.
2. The present O.A. has been filed for grant of interest on account of delayed payment of regular pension to the applicant, i.e. for almost five years from the date of invalidment from Army. The applicant served for 10 years 131 days and those who have been invalided out from service admittedly are entitled for invalid pension.
3. The applicant was enrolled in the Indian Army on 06.01.2001 in the Corps of EME. In November 2005 the applicant was promoted to the rank of Naik. In the year 2008, the applicant was selected for SSB Bhopal for pre-Commission Training and subsequently the applicant joined IMA Dehradun. The span of training was for four years. In June 2010, the applicant proceeded on leave (term break). On 05.07.2010 the applicant was injured and admitted in Base Hospital, Lucknow. Thereafter he was shifted from Base Hospital, Lucknow to Command Hospital, Lucknow where he was diagnosed to be suffering from TRAUMATIC PARAPARESIS. Later on, he was transferred to Military Hospital, Deharadun and again he was sent to Indian Military Academy for further processing of documents. On 12.10.2011, the applicant was transferred back to the previous Unit (629 EME Battalion) for documentation. Later on, he was boarded out from service on medical grounds. Before leaving the Army, the applicant was given copies of the Invaliding Medical Board dated 12.10.2011 and ECHS details of the same date by the authorities of the Battalion. It was 12.01.2012 the applicant

	<p>ʼãĀã ¹Çã³ã¶ã †ãŠãè •ãã ÀÖãè Öö </p>	<p>¹Çãã¹ã ¶ãÖãé ÖìfÃ Öö Ôãnìãã¹ãã•ããè †ãŠãè ¹Çãããã¹ã ¹ãÀ Öãè fÔã ½ãã½ãĒãñ ½ãò †ãŠã³ãĀìããÖãè †ãŠãè •ãã Ôã†ãŠ³ããè Öö fÔã ½ãã½ãĒãñ ½ãò fĀ.†½ã.fĀ., ããÀ†ãŠãîĀ †ãŠã³ããĀĒã³ã Ôãn Ôã½¹ã†ãĀŠ †ãŠÀò </p>
<p>ãã°ãã¹ Ôã. 2</p>	<p>¹Çãã©ããè †ãŠãñ †. †¹ãŠ, ¹ããè, ¹ããè ¹ããŠî/† •ããè ããfĀ ¹ããŠî †ìãã ,ã¶³ã ¹Çã†ãŠãĀ †ãñŠ ¼ãŠãñ ãã³ãñ Øã³ãñ Öö ¾ãã ¶ãÖãé ãã³ãñ Øã³ãñ Öö ìããñ ¹Çãã©ããè †ãŠãñ ãã†ãŠÖã °ãö†ãŠ †ãñŠ •ãããÀ³ãñ ¹Çã³ã¶ã ãã†ãŠ³ãñ Øã³ãñ Öö </p>	<p>„ŠãÀ: ìãñìã¶ã ĒãñĒãã †ãŠã³ããĀĒã³ã (,ãã. Ñãñ.) fĀ. †½ã. fĀ. ¹ãĀ Ôãnìãã¹ãã•ããè †ãŠãè ¹Çãããã¹ã ¹ãÀ fÔã ½ãã½ãĒãñ †ãŠã ãã¶ã¹ãã¶ã ãã†ãŠ³ãã •ãã Ôã†ãŠ³ãã Öö </p>
<p>ãã°ãã¹ Ôã. 3</p>	<p>¹Çãã©ããè †ãŠãñ †ñ.Ôããè.†ãã. †Ôã. ÔãìããìãĒããã èãè •ãã ÀÖãè Öö ¾ãã ¶ãÖãé èãè •ãã ÀÖãè Öö „Ôãn ,ã¼ããè ìã†ãŠ ¾ãã Öö ÔãìããìãĒããã ¹Çãã¹ã ¶ãÖãé ÖìfĀ Öö †ãðŠ¹ã³ãã fÔã Ôãã¹ãĀ ½ãò ¹ãîãĀ •ãã¶ã†ãŠãĀè ò </p>	<p>„ŠãÀ: ¹ããè. °ããè. ,ããñ. ,ããĀ. †ãñŠ fĀ.Ôããè. †ãã.†Ôã. ÔãìããìãĒããã †ãñŠ ½ãã½ãĒãñ ìãñìã¶ã ĒãñĒãã †ãŠã³ããĀĒã³ã (,ãã.Ñãñ.) †ñ.†½ã.fĀ, †ãŠãè †ãŠã³ãĀ- ¹ããĀããĒã ½ãò ¶ãÖãé ,ããìãñ Öö </p>
<p>ãã°ãã¹ Ôã. 4</p>	<p>„¹ãĀãñŠãŠ Öã¼ããè ããìãÓã³ããò Öãn Ôã½°ããããĒãã †ãŠãØã•ããè †ãŠã³ãĀìããÖãè †ãŠãè ¹ãŠãñãñ †ãŠã¹ããè ¹Çã³ã¶ã †ãŠÀ¶ãñ †ãŠãè †ãðŠ¹ãã †ãŠÀò </p>	<p>„ŠãÀ: ðãìããã†ãŠ ,ã¼ããè ìã†ãŠ fÔã ½ãã½ãĒãñ †ãŠã ãã¶ã¹ãã¶ã ¶ãÖãé Öì,ãã Öö, ,ãìã: Ôã½°ããããĒãã °Ôãããìãñ•ããò †ãŠãè ¹ãŠãñãñ †ãŠããã¹ã³ãããã „¹ãĒã°Ēã ¶ãÖãé †ãŠĀãfĀ •ãã Ôã†ãŠ³ããè Öö </p>

Â'ãã ìãòããŠ>Àã½ã¶ã, ¼ãã.

À. Êãñ. Ôãñ.

½ãìÖE¾ã ÊããñãŠ Ôãìã¶ããã
,ããã£ãããŠãÀãè Àããã ÔãÖã¾ãããŠ
ãã¶ã¾ãããããããããã

4. A plain reading of aforesaid information communicated to the applicant under the Right to Information Act shows that the matter was pending and no decision was taken, hence the Chief Information Officer under the Right to Information Act was not in a position to provide copy of the decision taken in the matter of post retiral dues of the applicant. Thus, after lapse of almost a year, there was stagnation on the part of the respondents to deal with the matter with regard to the applicant, who was invalided out on account of unfortunate accident though he was in the row of becoming a Commissioned Officer of the Army. On 30.04.2012, the applicant moved application for early disbursement of post retiral dues, but the same were not provided to him.

5. It appears that the Directorate, EME communicated vide letter dated 06.08.2012 that certain decision at appropriate quarter of the Army be taken for payment of post retiral dues to the applicant. Letter dated 06.08.2012 as contained in Annexure R-1 to the rejoinder affidavit is self speaking which is reproduced as follows:-

"Tele: 23019336

*Directorate Gen of EME (EME Pers)
Master General of the Ordnance
Branch
Integrated HQ of MoD (Army)
DHQ, PO, New Delhi-110105*

B/12605/AG/PC/ESM HL/EME Pers

06 Aug 2012

*EME Records
PIN-900453*

C/O 56 APO

INVALIDING MEDICAL BOARD PROCEEDING IN SERVICE IN
RESPECT OF NO 14642208X NK/CLK (SD) AKHILESH SINGH OF
629 EME BN

1. Ref this Dte Gen letter No B/12605/Gen/ESM HL/EME pers dt 25 Jul 2012.

2. S of C for obtaining sanction of competent authority for regularization of irregular retention in service in r/o No 14642208X (No 4614 Cadet) Nk/Clk (SD) Akhilesh Singh of 629 EME Bn is fwd herewith in duplicate for your further necessary action. You are requested to rectify the fwg obsn and fwd the SOC for further exam by the competent authority:-

- (a) Audit Report for infructuous expenditure incurred due to irregular retention not found alongwith the SOC.
- (b) Recommendation OIC Records & Col Records.
- (c) Up-to-date delay report.
- (d) Copy of the medical Board Proceedings.

Sd/- x x x x
(RKP Pandey)
Dy Dir
EME (Pers)
For DG EME”

6. The aforesaid letter has been followed by another letter dated 13.08.2012 is contained in Annexure R-2 to the rejoinder affidavit which is reproduced as under:

“EME Records
Pin – 900463
C/O 56 APO

13 Aug 2012

14642208X/T-5/Inv/DP

629 EME Bn
PIN – 906629

C/O 56 APO

IRREGULAR RETENTION IN SERVICE ; NO 14642209x EX
NK AKHILESH SINGH

1. Refer to Dte Gen Of EME (EME Pers) lettere no. B/12605/AG/PC/ESMHL/EME pers dated 06 Aug 2012.

2. Statement of Case for obtaining sanction of competent authority for regularization inser I e in r/o No. 14642208X Ex Nk Akhilesh Singh of your unit is returned herewith in duplicate for re-submission. You are requested to re-submit the statement of case along with following documents imdtly:-

(a) Audit Report for instructuous expenditure incurred due to irregular retention of the indl.

(b) Up to date delay report.

Sd/-

[Manikandan V]

Lt Col

Chief Record Officer

For OIC Reords

Encls :As above

Copy to :-

Dte Gen of EME (EME Pers) for info wrt Dte Gen of EME (EME Pers) letter
Master Gen of the Ord Branch cited at para 1 above please
IHQ of MoD (Army)
DHO PO, New Delhi-110105

Col Litigation for info please with telecom with Col Records on
JAG Branch 13 Aug 2012
HQ Western Command
Pin – 908546
C/o 56 APO

14642208X Ex Nk Your case was processed to integrated HQ of MoD
Akhilesh Singh (Army). The same has been returned by them for
S/o Shri Rajendra Singh want of above mentioned docus. The case will be
Preet Vihar re-submitted to Integrated HQ of MoD (Army) imdtly
Vill/PO Utharathia on receipt of above docus for necessary sanction for
(Raebarali Road) regularizing your irregular retention in service. Your
Lucknow (UP) final settlement on account will be carried out only on
Pin – 226032 receipt of above mentioned sanction.”

7. It is not disputed that under the Army Instruction 197, the applicant was entitled for invalid pension and gratuity. Army

Instruction 196 and 197 are reproduced as under:

“196 The Regulations in this Section shall apply to such Junior Commissioned Officers (including those granted Honorary Commissions) Other Rank and Non-Combatants (Enrolled) referred to in Regulation 112.

197. Invalid pension/gratuity shall be admissible in accordance with the Regulations in this chapter to-

- (a) an individual who is invalided out of service on account of a disability which is neither attributable to nor aggravated by service.*
- (b) an individual who is though invalided out of service on account of a disability which is attributable to or aggravated service, but the disability is assessed at less than 20%, and*
- (c) a low medical category individual who is retired/discharged from service for lack of alternative employment compatible with his low medical category.”*

8. In response to arguments advanced by learned counsel for the applicant, learned counsel for the respondents vehemently argued that the applicant is not entitled to any interest for the reason that whatsoever delay has been caused, is on account of applicant himself. He submitted that the first wife of the applicant expired in July 2013 and necessary formalities with regard to second wife, the applicant submitted his documents on 16.10.2016 in pursuance to which necessary proceedings were done and pension has been paid in January, 2016.

9. It may be noted that the present O.A. was filed in August, 2012 and a Bench of this Tribunal was pleased to pass interim order dated 22.01.2013 to expedite the matter with regard to payment of pension and necessary order be passed within two months. For convenience sake, interim order dated 22.01.2013 for convenience sake is reproduced as under:

“Shri M.S. Rautela, learned counsel for the respondents has requested two weeks’ more time to file counter affidavit. Learned Counsel for the applicant has submitted that the representations of the applicant copies of which have been filed with O.A. may be directed to be decided by the authorities concerned. We direct the concerned authority to decide representation of the applicant

within two months. Meanwhile rejoinder affidavit may be filed by the date fixed.”

10. It is unfortunate that order of this Tribunal, granting two months for deciding the representation has not been complied with by the respondents. No application was moved by the respondents for extension of time provided by the Tribunal. Thus, the respondents have acted in flagrant violation of the interim order dated 22.01.2013 and delayed the matter till January 2016 when invalidment pension was paid to the applicant, i.e. after lapse of almost three years. In reply to arguments advanced by learned counsel for the applicant, learned counsel for the respondents invited attention of the Tribunal to para 4, 5 and 6 of the counter affidavit which are reproduced as under:

“4. That No. 14642208X Ex Nk Akhilesh Singh was enrolled in the Army (Corps of EME) on 06 January 2001. In the year 2008, he was selected through SSB Centre, Bhopal for Pre-Commission Training and subsequently joined IMA, Dehradun. While he was on training, in the year 2010 he went on term break w.e.f. 14 June 2010 to 06 July, 2010. During the said leave at his home he slipped from the stairs and was injured. He was admitted in Command Hospital, Lucknow where he was diagnosed as case of POST TRAUMATIC PARAPARESIS and was transferred to R&R Hospital, Delhi wherein he was placed in law medical category P5 and was transferred to Military Hospital, Dehradun for holding medical board. The invaliding Medical Board, IMB in respect of the petitioner was conducted on 08 March, 2011 at Military Hospital, Dehradun had considered the above disability as neither attributable to nor aggravated by military service and not connected with service and assessed the same at 40% for life.

5. The said medical board was approved on 27 April, 2011 as such the petitioner was required to be invalided out from service on or before 17 May 2011. But, the individual was invalided out from service w.e.f. 12 October 2011. Since there was an irregular retention of the individual w.e.f. 18 May 2011 to 11 October 2011 for the period of 147 days, Office of EME Records vide Signal NO. A-4479 dated 23 January, 2012, letter No. 14622208/T/Inv/DP dated 28 January 2012 and 17 May,

2012 had requested 629 EME Bn (the mother unit of the petitioner) to forward the statement of case for regularization of said irregular retention to AG's Branch. Integrated HQ of MoD (Army) for obtaining necessary Govt. Sanction. However, after a lapse of eight months, 629 EME Bn vide their letter No. 23201/PC/EME dated 24 May 2012 had forwarded statement of case to regularize the irregular retention in service of the petitioner without obtaining sanction of the competent authority. As a result, EME Records vide their letter no. 14642208/T-5/Inv/DP dated 12 June 2012 had returned the same to 629 EME Bn with a request to process the case through staff channel to AG's Branch. Integrated HQ of MoD (Army). Accordingly, his case was processed to the competent authority for obtaining Govt. Sanction for regularization of the said irregular retention of the petitioner in service. However, the same was returned by integrated HQ of MoD (Army) vide their letter No. B/12605/AG/PC/ESM HL/EME Pers dated 06 August, 2012. (Copy attached and marked as ANNEXURE R1) for rectifying the observation made by them and re-submitting the same. As such, the statement of case returned by the Integrated HQ of MoD (Army) with observations were forwarded to 629 EME Bn for rectifying and re-submitting the statement of case to integrated HQ of MoD (Army) and the same fact was also informed to the petitioner vide EME Records letter No. 14642208X/T-5/Inv/DP dated 13 August, 2012 (Copy attached and marked as ANNEXURE R2).

6. That in view of the above, all the terminal benefits are pending due with the respondents for want of Govt. Sanction. After re-submitting the statement of case and thereafter on receipt of Govt. Sanction from the competent authority for regularization of the irregular retention of the petitioner, all the dues will be paid to him immediately. However, it is submitted that the petitioner is not eligible for grant of Disability Pension in terms of Para 173 of Pension Regulations for the Army, 1961 (Part-1) (Copy attached and marked as ANNEXURE R3) as his disability POST TRAUMATIC PARAPARESIS through assessed at 40% for life, the same has been considered by duly constituted IMB as neither attributable to nor aggravated by military service. Since, he is not fulfilling the conditions laid down for grant of disability pension as per *ibid* Pension Regulation, he is not entitled for grant of disability pension."

11. In para 6 of the counter affidavit (*supra*) the respondents have set up a case that the delay in payment of post retiral dues has been caused on account of omission and commission on the part of the

applicant himself. The respondents have categorically stated that all terminal benefits are pending for want of Government sanction. Thus, the final burden has been shifted by the respondents on the Government on account of which delay of almost five years has been caused for payment of invalidment pension to the applicant.

12. So far as arguments advanced by learned counsel for the respondents with regard to death of first wife and entry with regard to second wife and payment of Army Group Insurance Scheme is concerned, we feel that it cannot be a ground to delay payment of pension to the applicant who admittedly was invalided out in the year 2011. Immediately after invalidment, the respondents should have processed the papers in accordance with the rules. Thus, it is obvious that the respondents have committed gross injustice to the applicant who on account of omission and commission of the respondents suffered mental pain and agony by keeping the matter pending for almost five years without its adjudication in accordance with the rules to pay pension to the applicant.

13. Hon'ble Supreme Court in the case of ***Dr. Uma Agarwal vs. State of U.P. and anr.*** reported in (1999) ILLJ 1335 SC gave direction that all matters with regard to processing for payment of pension with regard to retiring employees must begun within six months of their retirement. Their Lordships held that every effort shall be made to complete the formalities so that pension is paid within a reasonable period. For convenience sake, observation made by the Hon'ble Supreme Court is re-produced as under:-

“Every effort shall be made to complete the verification of service, as in Clause (a) and to make good omissions, imperfections or deficiencies referred to in Sub-clause (1) of this Clause. Any omission,

imperfections or deficiencies including the portion of service shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in Clause (a) shall be ignored as service qualifying for pension shall be determined on the basis of entries in the book.”

14. In the case of **Dr. Uma Agarwal** (supra) their Lordships reiterated the earlier observation with regard to pensionary benefits holding that the pension is not a bounty but a right of the government servant. The Government is to follow the rules mentioned or applicable to Government employee and delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Relevant portion of the decision in **Dr. Uma Agarwal** (supra) is reproduced as under:-

“We have referred in sufficient detail to the Rules and instructions which prescribe the time- schedule for the various steps to be taken in regard to the payment of pension and other retiral benefits. This we have done to remind the various governmental departments of their duties in initiating various steps atleast two years in advance of the date of retirement. If the rules/instructions are followed strictly much of the litigation can be avoided and retired government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the government servant. Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the rules/instructions apart from other relevant factors applicable to each case.”

15. While deciding identical controversy a Division Bench of Allahabad High Court, presided by one of us (Hon'ble Justice Devi Prasad Singh) considered the right to pay interest on delayed

payment of pension in the case of **Ramawati Devi vs. State of U.P.**

[2009 (27) LCD 1605] and held as under:-

“3. *A Division Bench of this Court in the case of Sri Dhar Pandey v. Managing Director, Food Corporation of India and others, reported in 2008 (26) LCD 1751, after considering the various pronouncements of Hon’ble Supreme Court observed that in case government employee is not paid post retiral dues within reasonable time because of no fault on his/her part then he shall be entitled for interest at the rate of 10 per cent. Relevant portion from the judgment of Sri Dhar Pandey is reproduced as under:*

“3..... Learned counsel for the petitioner has relied upon the judgment of Hon’ble Supreme Court as well as this Court reported in (2007) 3 SCC 545; Alok Shanker Pandey v. Union of India and 1997 (15) LCD 1163; C.M. Wahal (since deceased, represented by his substituted Lrd) v. Divisional Manager, Life Insurance Corporation of India, Varanasi and another.

4. After conclusion of the disciplinary proceedings, it is incumbent upon the respondents to pay the entire gratuity, C.P.C. and other dues within reasonable period but were paid after more than one year.

6. Accordingly, the writ petition is allowed to that extent and a writ in the nature of mandamus is issued commanding the opposite parties to pay interest at the rate of 10 per cent per annum from the period calculated after lapse of three months from the due date of payment, i.e. from the date of conclusion of the disciplinary proceedings.”

4. The other judgments relied upon by the petitioners’ counsel are 2002 (20) LCD 720, Satish Chandra Goel v. The Chief Development Officer, Saharanpur and others and 2002 (1) LBESR 949 (All), Radhika Devi v. Union of India and others.

5. In view of above, writ petition deserves to be allowed and is allowed. A writ in the nature of mandamus is issued commanding the opposite parties to pay interest at the rate of 10 per cent to the petitioner immediately from the date of death of petitioner’s husband.”

16. Keeping in view the factual matrix on record, we feel that there is serious negligence on the part of the Record Office while

sanctioning pension to the applicant who was unluckily invalidated out of Army on account of injuries and has suffered mental pain and agony for about five years. There appears to be no material on record to indicate that because of applicant delay has been caused in payment of pension to the applicant. Death of wife and matter with regard to correction of record too was processed during 2014-15 and not in 2011-12 when the petitioner was invalidated out. If there were some formalities required to be completed to record name of the second wife that should not have come in the way to grant pension immediately after invalidment. In any case, the applicant was invalidated out on 12.10.2011. His first wife expired in July 2013 and thereafter he has married after sometime. Thus, name of second wife cannot be a factor for delay. For sufferance of financial loss, mental pain and agony, it is a fit case where in view of law settled by the Hon'ble Supreme Court (vide ***Ramrameshwari Devi and others V. Nirmala Devi and others***, (2011) 8 SCC 249, ***A. Shanmugam V. Ariya Kshetriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam represented by its President and others***, (2012) 6 SCC 430, ***Indian Council for Enviro-Legal Action V. Union of India***, (2011) 8 SCC 161, ***Ram Krishna Verma V. State of U.P.***, (1992) 2 SCC 620, ***Kavita Trehan V. Balsara Hygiene Products Ltd.*** (1994) 5 SCC 380, ***Marshall Sons & CO. (I) Ltd. V. Sahi Oretrans (P) Ltd.***, (1999) 2 SCC 325, ***Padmawati V. Harijan Sewak Sangh***, (2008) 154 DLT 411, ***South Eastern Coalfields Ltd. V. State of M.P.***, (2003) 8 SCC 648, ***Safar Khan V. Board of Revenue***, 1984 (supp) SCC 505) coupled with the fact that the applicant has been compelled to file petition for retiral dues,

exemplary cost may be saddled on the respondents and the respondents be directed to pay interest in view of decisions referred to herein above.

17. Apart from above, we are of the view that the respondents must take suitable action atleast before six months of the retirement in the light of judgment in the case of **Dr. Uma Agarwal** (supra) relating to all members of the Indian Army, Indian Air Force and Indian Navy (though they are not parties). Additionally, it will be appropriate if suitable action towards invalid pension/disability pension is started with immediate effect for cases of invalidation or for the reason that law settled by Hon'ble Supreme Court in the case of **Dr. Uma Agarwal** (supra) is **LAW OF THE LAND** and binding on State and its Authorities including the Armed Forces under Article 141 of the Constitution of India.

18. While parting with the case we direct the respondents to implement the observations made in the case of **Dr. Uma Agarwal** (supra) and ensure processing of documents for payment of pension begins from six months prior to the date of retirement or with immediate effect for cases involving invalidment on account of medical category. The processing of pension in cases of invalidment requires higher sympathy and organizational support and hence must be expedited within a period five months failing which the respondents shall pay the interest @ 10% per annum as held by the Hon'ble Supreme Court (supra).

19. In view of the above we quantify Rs 50,000/- as cost since their Lordships in the case of **Salem Advocate Bar Association, Tamilnadu vs Union of India** (2001) 8 SCC 249 have held that

where a person is compelled to file petition in the Court for the fault of other side, then imposition of cost is a must. We cannot but follow the judgment of the Hon'ble Supreme Court while awarding cost of Rs 50,000/-. Ofcourse, imposition of cost may depend upon the facts and circumstances of each case.

20. It shall be open to the Chief of the Army Staff to recover the amount of interest from the officials who are at fault in dealing with the controversy after holding appropriate inquiry.

ORDER

(i) The O.A. is **allowed** accordingly with all consequential benefits. The applicant shall be entitled interest @ 10% per annum immediately after five months from the date of his invalidment from service till the date actual payment is made.

(ii) We further direct the respondents to comply with the decision of Hon'ble Supreme Court in the case of ***Dr. Uma Agarwal*** (supra) and direction issued in the present order to expedite payment of pensionary benefits within time frame provided herein above and to issue appropriate circular letter or order in view of the present order.

(iii) Costs of Rs. 50,000/- (Rupees fifty thousand) shall be deposited by the respondents with the Registry within four weeks which shall be paid to the applicant through cheque forthwith.

(iv) Copy of the present order shall also be served on Chief of the Army Staff, Chief of the Air Force Staff and Chief of the Naval Staff so that persons serving in all the three wings of Armed Forces may be dealt with equality in the unfortunate event of invalidation out.

(v) Let order be complied with and all consequential benefits so far as the present applicant is concerned be provided expeditiously, say, within four months from today.

(v) This order shall be communicated by Maj Salen Xaxa, OIC Legal Cell to the appropriate authority within two weeks from today.

(Air Marshal BBP Sinha)
Member (A)

(Justice D.P. Singh)
Member (J)

Dated: 09 January 2018
Anb