

O.A. No. 37 of 2016

Shree Pal .. Applicant

vs.

Union of India and others .. Respondents

Friday, this the 19th day of January, 2018.

Per Hon'ble Air Marshal BBP Sinha, Member (A)

I am in respectful disagreement with the opinion of Brother Hon'be Mr. Justice D.P. Singh, Member (J).

This is a case where the applicant is primarily demanding disability pension for an incident which happened when the applicant had taken out-pass while on duty to receive his relatives at the railway station.

The respondents have vehemently denied that the applicant was on military duty or had any casual relation with military duty.

Therefore, I feel that the case should be re-heard providing a chance to the respondents to put their point of view with documentary evidence and policy on the matter as to how an out-pass taken for personal work is not related to military duty and also as to how permission given by the Commanding Officer to the applicant to leave the Unit and go for personal work is not connected with military duty.

In my opinion, unless the respondents are given one more chance and heard on these two points, it will not be in the interest of justice to presume that the out-pass or permission given by the Commanding Officer to leave Unit for personal work would amount to military duty or have casual connection with military duty.

I propose that the case may be listed for re-hearing.

(Air Marshal BBP Sinha)

(Justice D.P. Singh)

Member (A)

Member (J)

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