

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.5625 OF 2008
[Arising out of SLP(C)No.11656 of 2006]

RAVINDRAN P.M.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

ORDER

Leave granted.

This appeal is directed against the judgment and order dated 27th July, 2005 passed by the High Court of Kerala in O.P.No. 13522(1) of 1997 dismissing the appellant's claim that he was entitled to disability pension, having suffered injuries in an accident while in possession of an 'out pass'.

On behalf of the appellant, who was enrolled in the Army in 1980, it was submitted that since he had been involved in an accident while he was holding such 'out pass', it must be held that he was on duty at the relevant point of time. The High Court had negated the said stand and, accordingly, the appellant has filed the instant appeal.

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Having heard learned counsel for the parties and having

considered the answer from the Army authorities, addressed to the appellant on 2nd April, 2008, in reply to the application filed by him on 30th October, 2007 under the Right to Information Act, 2005 defining 'out pass' to be a permission accorded to an individual to proceed outside the unit precincts as per the customs of service and further clarifying that during the said period the person concerned is deemed to be on duty and continues to remain subject to the Army Act, we are inclined to accept the case made out by the appellant. It must also be indicated that the learned Additional Solicitor General was not in a position to dispute the said contention in view of the said communication from the Army authorities.

Accordingly, we allow the appeal, and upon holding that the appellant continued to be on duty while in possession of an 'out pass', we further hold that he would be entitled to disability pension as claimed by him.

The judgment of the High Court is, accordingly, set aside.

It appears from the records that the appellant

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suffered the accident in 1986 and he claims interest on such pension as has been granted in the case of Lance Dafadar Joginder Singh Vs. Union of India and others [1995(supp.)3 SCC 332], but such prayer is opposed on behalf of the respondents on the ground that the appellant had received an offer of alternative appointment, which he had refused.

In such circumstances, having considered both the views, we allow

interest on the disability pension payable to the appellant from the date of filing of the first writ petition at the rate of eight per cent per annum.

There will be no order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(MARKANDEY KATJU)

NEW DELHI;
September 11, 2008.

