

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION (L) NO.19816 OF 2015
IN
WRIT PETITION NO.4683 OF 2013

Secretary to the Government of Maharashtra
and Others.

.. Petitioners

Vs

Lt. Col. V.M. Karve (Retired).

.. Respondent

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Shri Nitin P. Deshpande, AGP for the Petitioners.

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CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 1st MARCH 2016

P.C.

1. This Review is sought of the judgment and order dated 20th April 2015 in Writ Petition No.4683 of 2014. The Respondent in the Review Petition (Petitioner in Writ Petition) retired as a Lt. Colonel who actively participated in the Indo Pak War of the year 1971. He was wounded due to enemy gun shot when he was fighting a battle in Bangladesh and was granted "Wound Medal". Initially, as per the Government Policy, the State Government agreed to allot a plot to him. That decision was later on withdrawn. The stand taken by the State Government before this Court was that though the Writ Petitioner may

have received a Wound Medal, it is not a gallantry award. The Review Petition is filed on two grounds. First ground is that the Ministry of Defence ought to have been made a party to the Writ Petition. The second ground is based on the letter of clarification issued on 2nd July 2015 by the Adjutant General's Branch Ceremonial & Welfare, South Block, New Delhi.

2. We have perused the judgment and order dated 20th April 2015. During the pendency of the Petition, the State Government which is the Review Petitioner, never raised a contention that the Ministry of Defence was a necessary or a proper party. The Petitioner is entitled to the benefit of the State Policy which is in terms of the State Government Resolutions. Therefore, the Ministry of Defence was neither a necessary nor a proper party.

3. Perusal of the judgment and order dated 20th April 2015 shows that a reliance was placed on a Certificate issued by the Army Head Quarters of Southern Command, Pune, on 10th November 2005.

4. Thereafter, the Collector of Pune sought clarification from the Southern Command Head Quarter about the nature of the Wound Medal. On 17th February 2015, a clarification was issued on the request made by the Collector of Pune by the Integrated HQ of Ministry

of Defence (Army). In Paragraph 5 of the judgment and order dated 12th March 2015 passed in the Writ Petition No.4683 of 2013, this Court has observed thus:

“5. It appears that the Collector, Pune, sought clarification from the Southern Command Head Quarter, about the nature of the wound medal. The learned AGP has placed on record a photocopy of the letter dated 17th February 2015 issued by Shri M.K. Sirohi, Colonel, Dir, CW-2 for Adjutant General, HQ of MOD (Army). The said letter is taken on record and marked “B-1” for identification. The clarification issued by the Integrated HQ of MOD (Army) reads thus:

“CLARIFICATION: AWARDS

1. Refer your Letter No.PRH/kavi/230/2015 dt 31 Jan 2015.
2. Mention-in-Despatches is not a Presidential award. It is a recognition for distinguished or meritorious service in operational areas and acts of gallantry which are not of a sufficiently high order to warrant Gallantry awards. It is evident from the notification, that idea behind warrant of M-in-D is to reward such acts, which do not merit award of gallantry medal. To recog such gallantry and to distinguish it from other gallantry awards, the awardee is auth to wear a lotus leaf emblem on the campaign medal.
3. Wound Medal (renamed as Parakram Padak) is Presidential award and listed at Ser No.29 in the Precedence of awards vide President Sectt Notification No 106/Pers-2004 dt 19 Jul 2004 (copy enclosed). Parakram Padak is awarded to the personnel who sustained/sustain wounds as a result of direct enemy action in any type of operations or counterinsurgency operations.”

(underline added)

5. Ultimately, this Court has held that in view of the clarification dated 17th February 2015 issued by the Army, a “Parakram Padak” will have to be equated with a gallantry award. The clarification issued by the Integrated HQ of MOD (Army) which is quoted above clearly records that the Wound Medal has been renamed as “Parakram Padak” which is a presidential award and listed at Sr. No.29 in the Precedence of the Awards. The eligibility in terms of the Government Resolution dated 30th December 1973 is of a person holding a gallantry award.

6. We have perused the letter dated 2nd July 2015. Firstly the State Government had no business to seek a clarification about the clarification issued by the Integrated HQ of Ministry of Defence (Army) which was issued on 17th February 2015. Secondly, the letter dated 2nd July 2015 shows that the attention of the officer who has issued the said letter was not invited to the clarification issued by the Integrated HQ of Ministry of Defence (Army) on 17th February 2015. Surprisingly, the said letter does not mention that the Wound Medal has been renamed as the “Parakram Padak”.

7. It is not in dispute that the Petitioner had actually participated in Indo-Pak Conflict in the year 1971 and was wounded due to enemy gun shot in a battle on River Padma at Kustia (now in Bangladesh) on 12th December 1970. We see no error apparent on the face of record and even otherwise there is no ground for review. The State Government cannot treat a soldier in this fashion. The Review Petition is accordingly rejected.

(C.V. BHADANG, J)

(A.S. OKA, J)