

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 WRIT PETITION NO.3359 OF 2014

MOHAMMAD ZINDALAL SHAIKH
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioner : Mr. Venjane Tukaram M.
AGP for Respondent/s-State : Mr. S. B. Yawalkar.
Advocate for Respondent Nos.1 to 3 : Mr. Dhongade A. B.

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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 11.08.2021

PER COURT :-

1. By this petition, the petitioner has put forth prayer clause 'B' which reads as under :

“B) Be pleased to direct the present respondents to grant pensionary benefits to the petitioner from 09.09.1967, within some stipulated period.”

2. We have considered the submissions of the learned advocates for the petitioner and the respondents. With their assistance, we have gone through the petition paper book.

3. The petitioner joined the Indian Army as a Sepoy (Sipahi) on 07.08.1954. On 09.09.1967, he was discharged from employment on the ground that his service is no longer required. The petitioner was comfortable with such discharge and he has not challenged the same. In 1967, since his first wife passed away and there was a family dispute with regard to his property, he had desired to leave service. In the petition paper book, he pleads in paragraph No.2 that he had resigned from duties.

4. We find from the Pension Regulations for the Army, 1961 under Section II – SERVICE PENSION AND GRATUITY, Sub Section 1 – Junior Commissioned Officers and Other Ranks, that Rule 132 prescribes the minimum period of qualifying service (without weightage) actually rendered and required for earning service pension to be 15 years.

5. The first application filed by the petitioner before Maratha Light Infantry Abhilekh Karyalaya, Records, is dated 15.04.1989. By a communication dated 17.06.1989, the Lieutenant, Assistant Record Officer for Officer-In-Charge

Records has informed the petitioner that since he had expressed his unwillingness to extend colour service, he was discharged on the ground “*Service no longer required*”. As his total qualifying service was twelve (12) years and 328 days, no pension was admissible to him. There is no dispute that gratuity was paid to the petitioner immediately after he was discharged from service.

6. The petitioner again addressed a similar request dated 16.08.2001 to the same department at Belgaum. The Captain, Record Officer for Officer-In-charge Records replied to the petitioner vide communication dated 28.08.2001 that his minimum qualifying service for pension is fifteen (15) years and as he has not completed the said tenure service, he was not entitled for pension.

7. The petitioner once again addressed a letter to the Higher Officer of the Record, the Maratha Light Infantry at Belgaum vide his application dated 28.03.2014 again praying for pension. The Major, Senior Record Officer for OIC Records set forth the same reply to the petitioner.

8. We find that this Court had passed an order on

07.12.1989 in Writ Petition No.802 of 1989 filed by Adinath Shivram Barge Vs. Secretary, Ministry of Defence, Union of India and others, concluding that this Court was not entertaining the petition for pension since the delay was of 34 years in approaching the Court. In yet another similar matter, this Court at its Principal Seat delivered an order on 17.04.2006 in Writ Petition No.9529 of 2003 filed by Govind Bandu Kodale Vs. Union of India and others rejecting the claim of the petitioner for pension, as he had not put in 15 years of service. Both the above petitioners were working as Sepoy with the Indian Army.

9. In the instant case, the petitioner was discharged from service on 09.09.1967 and he preferred a Writ Petition on 08.04.2014. We are not impressed by the repeated filing of applications by the petitioner, which are intended to bring this petition within limitation. The cause is 47 years old. Nevertheless, even on merits, the petitioner is not entitled for pension.

10. As such, this petition, being devoid of merits, stands dismissed.

11. No order as to costs.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-