



\$~72

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 11562/2022 & CM APPLs. 34245/2022, 26594/2023,
20654/2024

SUB RATHINDER NATH ROY THROUGH WIFE BHARTI ROY

..... Petitioner

Through: Mr. Narender Kaushik and
Mr. Pankaj Kaushik, Advs.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Sushil Kumar Pandey, Sr. PC for
UOI with Major Partho Katyayan,
(Army)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

09.04.2024

%

1. This petition has been filed by the petitioner with the following prayer:

“In view of above stated facts and circumstances. It is most respectfully prayed:

a) To quash the judgment & sentence dated 25.07.2022 passed by Ld. GCM being violation of principle of natural justice under Article 14 & 21 of Constitution of India and unconfirmed by Chief of Army Staff (R-2).

b) To declare 127 days custody as illegal ie from 22.03.2022 to 27.07.2022 and compensate by awarding exemplary cost/compensation of Rs. 2 Crores for illegally keeping petitioner in custody for more than 4 months, which has resulted in depression of petitioner against the respondent.

c) To direct respondent to initiate appropriate inquiry against responsible officers and punish them U/s 63 of Army Act for torturing and harassing/ two years to petitioner.



d) To declare the action of the respondents as unjust, arbitrary and illegal retaining under close arrest since 22 March 2022 to 27 July 2022.

e) To quash para 394 of Army Regulation and Para 111, 112 and 113 of pension regulation being violated article 14 and 21 of Constitution of India being arbitrary and discriminatory.

f) To pass any other order deemed fit and in the interest of justice.”

2. Suffice to state, in view of the order dated August 18, 2022, the prayer ‘b’ and ‘e’ are pressed. We have heard Mr. Narender Kaushik, learned counsel appearing for the petitioner and Major Partho Katyayan for the respondents. It transpired that the petition under Section 164(2) of the Army Act, 1950 is pending consideration before the Competent Authority and according to Major Partho Katyayan, the time period to dispose of the same shall be governed by the order dated December 8, 2023 passed by the Armed Forces Tribunal in OA No.3508/2023.

3. If that be so, the prayer ‘b’ and ‘e’ are premature as the same can be prayed only after culmination / decision in the Statutory Appeal under Section 164(2) of the Army Act, 1950.

4. At this stage, Mr. Kaushik states he shall withdraw the writ petition with regard to only prayers ‘b’ and ‘e’, and seek the said prayers at the appropriate time after a decision is taken on the Statutory Appeal under Section 164(2) of the Army Act, 1950 by the Competent Authority.

5. We also take on record the submission of Mr. Kaushik that the AGIF has already been paid to the petitioner and other benefit need to be paid to the petitioner is the Provident Fund, for the release of which necessary documents shall be submitted by him to Major Partho Katyayan within one week from today. Major Partho Katyayan states that on receipt of the



documents, the same shall be forwarded to the concerned record Office, which shall release the Provident Fund, subject to any adjustment, to the petitioner within three weeks thereafter. The statement of Major Partho Katyayan is taken on record.

6. In view of the submission made by Mr. Kaushik, the writ petition and connected applications are dismissed as withdrawn with liberty to the petitioner to seek the prayers as survive for consideration at the appropriate time after the decision in the petition under Section 164(2) of the Army Act, 1950.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

APRIL 9, 2024/aky