

Form No.4  
[(SEE RULE 11(1))]  
IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA  
**ORDER SHEET**

**APPLICATION No. O.A. No. 54/2016**

APPLICANT (S) LT COL SHARMA SUNIL DATTA  
RESPONDENT (S) Union of India & Others  
Legal Practitioner of applicant Legal Practitioner for Respondent (s)  
In Person Mr. Anand Bhandari

<b><u>ORDERS OF THE TRIBUNAL</u></b>	
<u>Order Serial Number :</u>	<u>Dated : 29-09-2016</u>
	<p>Present : The applicant in person and Mr. Anand Bhandari, Id. counsel for the respondents assisted by Maj Narender Singh OIC Legal Cell.</p> <p>2. This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 seeking relief for converting Physical Casualty to Battle Casualty.</p> <p>3. The factual matrix seems to be admitted is that the applicant was enrolled in the Indian Air Force on 05.02.1982 as an Airman and got commissioned into 84 Armoured Regiment on 09.03.1990. He had served in various peace and modified field areas and participated in Operation Vijay. While he was serving in 84 Armoured Regiment, a terrorist attack took place on Indian Parliament on 13.12.2001 and in consequence thereof 84 Armoured Regiment got mobilized from Nabha, Patiala, Punjab to a war like situation on the Western Border of India-Pakistan due to declaration of "Operation Parakram" (in short OP Parakram). Part II order No. 47 dated 30.05.2002 was issued and the applicant was deployed in the Western Border. The applicant, while serving in the field area during OP Parakram, was detailed as Officer-in-Charge and was ordered for shifting and moving of first and second line ammunition of 84 Armoured Regiment from</p>

one operational location to another on 27.05.2002 [Annexure A-5(a)]. The applicant reached the location of ammunition storage area on 27.05.2002 and started inspecting and coordination the task of ammunition loading into vehicles and its movement to next operational location. It had rained heavily on the night of 28.05.2002. However, the applicant started the duties assigned to him in the early morning of 29.05.2002. While checking the ammunition loading and safe stacking of ammunition in a 7.5 Ton Stallion Ammunition vehicle, at the time of getting down from the vehicle the applicant's feet slipped and he fell down on his back on the hard ground which was slippery on account of heavy rains during the night. The applicant sustained back injury due to the fall from the ammunition vehicle and experienced excruciating pain and was unable to stand or sit. His immediate junior, Naib/Raisaldar Jagdish Singh took him to military hospital. Thereafter he was evacuated to 167 Military Hospital Bikaner on 29.05.2002. A report on injuries was annexed at Annexure A-3. The applicant was again evacuated to Command Hospital (Western Command) Chandimandir on 06.06.2002 for his further treatment, where he was treated from 06 to 13 June 2002 and was placed in medical classification P4 and declared temporarily unfit for military service upto 24.07.2002 and granted sick leave. Again the applicant was admitted in Command Hospital, Chandimandir on 24.07.2002 for further treatment and review. The applicant was transferred to Military Hospital Patiala on 31.07.2002 for conducting a Medical Condition Board, which placed him in medical classification P3 temporarily [Annexure A-4(a)]. The applicant reported back for duty on 01.08.2002. A Court of Inquiry was conducted on 23.07.2002 and the CoI opined that the applicant sustained injury Contusion Over Back (Moderate) while on bona fide military duty at field area owing to

OP Parakram under circumstances beyond his control and is not to blame for the injury [Annexure A-5(b)]. Commandant 84 Armoured Regiment also opined that the injury was sustained while performing bona fide military duty and it was accidental, beyond anyone's control and nobody is to be blamed for the same [Annexure A-6]. The error of classifying the injury as a 'physical casualty' instead of 'battle causality' was known to the applicant in 2009 and he made a request to Adjutant General Branch for treating him as Battle Casualty and the same was returned on 27.02.2010 stating inter alia that while Army Rule 1/2003/MP having no provision to classify casualties in retrospect, the Rules in vogue was SAO 8/S/85 which did not cover applicant's case. The applicant once again made a statutory complaint on 23.07.2010 for re-examination, which was also rejected with the direction that status quo shall be maintained.

4. The respondents advanced two fold arguments, first the applicant submitted statutory complaint after a long delay, which was rejected on 29.07.2015, but the applicant neither in the averments nor in the reliefs prayed for challenged the said order. Their second argument was that the circumstance of the injury sustained by the applicant is not covered under the provisions of Special Army Order 8/S/85 for classification of Battle Casualty and the present Army Order 1/2003/MP in vogue having no provisions to classify battle casualties in retrospect.

5. We have heard the Id. Counsel for the respondents and applicant and perused records.

6. We find that a Court of Inquiry (in short COI) was conducted to inquire into the circumstances of the injury sustained by the applicant.

For the sake of convenience opinion of the COI is reproduced hereunder :

*"IC 46600F Maj SD Sharma, 84 Armd Regi sustained injury 'CONTUSION OVER BACK (MODERATE)' while on bonafide mil duty, while at field during OP PARAKRAM, Maj SD Sharma sustained the injury under circumstances beyond his control. Maj SD Sharma nor any other individual is to blame for the injury so sustained by the offr."*

7. A plain reading of the COI opinion shows that the injury sustained by the applicant while serving on military duty which was beyond his control and not to blame anyone for the casualty. The said report along with applicant's representation was forwarded for consideration after being recommended by the GOC-in-C, South Western Command.

8. For convenience sake rejection of applicant's statutory complaint, which is at Annexure R2 to the counter affidavit is reproduced below :

"1. I have perused the statutory complaint dated 15 Apr 2015 submitted by Lt Col Sunil Datta Sharma of 141 MC/MF Det in the light of relevant documents on record, comments of Commanding Officer and recommendation of the Officiating General Officer Commanding, Bengal Area.

2. The complainant has contended that injury sustained by him during shifting of ammunition on 29 May 2002 during OP PARAKRAM in field area has been wrongly classified as Physical Casualty.

3. A perusal of record reveals that the complainant was injured on 29 May 2002 when he slipped from 7.5 Ton Stallion ammunition vehicle while inspecting the ammunition loading and sustained 'Contusion Over Back (Moderate)'. As per AO 1/2003, there are three separate stipulations which must be fulfilled to qualify a physical injury as "Battle Casualty". A conjoint reading of the conditions necessary to qualify an injury or casualty as battle casualty show that the circumstances in which the complainant sustained the injury does not fall within the laid down criteria Para 69 of Section 5 of AO 1/2003 and therefore, does not tantamount to a battle casualty.

4. I, therefore, recommend that statutory complaint submitted by Lt Col Sunil Datta Sharma dated 15 Apr 2015 be rejected as it lacks merit and substance."

9. A plain reading of the aforesaid rejection order dated 29.07.2015 would reveal that according to the respondents the injury sustained by the applicant does not fall within the parameters of cause and circumstances of battle casualty as laid

down in Para 69 of Section 5 of Army Order 1/2003 and hence the rejection. However, while returning applicant's first request the respondents authority concluded that Army Order 1/2003 does not have any provision to classify the battle casualties in retrospect and injury that had been sustained by the applicant was not covered by Special Army Order 8/S/85 which was in vogue at the relevant time.

10. Perusal of impugned order shows that no reasons have been assigned as to why and under what circumstances the opinion expressed by the Court of Inquiry does not make out a case for battle casualty. It is observed that separate conditions stipulated as provided by Army Order 1/2003 have not been fulfilled by the applicant. The applicant's claim while making request for battle casualty is not covered by the criteria as laid down in Section 5 of AO 1/2003.

11. It is well settled proposition of law that every order passed by the authority, not only an administrative order but also judicial order or quasi - judicial must be supported by reasons recorded in it. A cryptic and non speaking order shall be hit by Article 14 of the Constitution of India.

12. Thus it is settled legal proposition of law that not only administrative order, but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice-delivery system, to make it known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of the principles of natural justice. The reason is the heartbeat of every conclusion.

It introduces clarity in an order and without the same, the orders becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected. (Vide: **State of Orissa vs. Dhaniram Luhar**, AIR 2004 SC 1794; **State of Uttranchal & Anr vs. Sunil Kumar Singh Negi**, AIR 2008 SC 2026; **The Secretary & Curator, Victoria Memorial Hall vs. Howrah Ganatantrik Gupta & Ors. Vs. Modern Cooperative Group Housing Society Limited & Ors**, (2010) 13 SCC 336.

13. Apart from above, it appears that Army Order 1/2003 has not been considered while rejecting the claim of the applicant for grant of battle casualty. Relevant portion of Army Order 1/2003 and Special Army Order 8/S/85 need to be reproduced for adjudication of the case :

Section I INTRODUCTION

1. This Army Order lays down instructions for reporting of physical and battle casualties to various authorities, intimation to next to kin, submission of reports on accidents involving loss of life and injuries, issue of condolence letters and death certificates and presumption of death of personnel reported missing.  
Definitions :
2. For the purpose of these instructions, definitions of various terms used herein will be as in the succeeding paragraphs.
3. Physical Casualties – Physical Casualties are those which occur in non-operational areas or in operational areas where there is no fighting or whilst in aid to civil power to maintain internal security. Such casualties fall in to the following categories :-
  - (a) Died or killed.
  - (b) Seriously or dangerously ill
  - (c) Wounded or injured (including self-inflicted)
  - (d) Missing.
4. Battle Casualties: - Battle Casualties are those casualties sustained in action against enemy forces or whilst repelling enemy air attacks. Casualties of this type consist of the following categories:-
  - (a) Killed in action
  - (b) Died of wounds or injuries (other than self-inflicted)
  - (c) Wounded or injured (other than self-inflicted)
  - (d) Missing

Notes:

- (i) Air raid casualties are those sustained as a direct or indirect result of enemy air raid. These will be treated as battle casualties.
  - (ii) Casualties in fighting against armed hostiles and those whilst in aid of civil power to maintain internal security are classified as physical for statistical purposes but are treated as battle casualties for financial purposes.
  - (iii) Casualties due to encounter with troops or armed personnel or border police of a foreign country, or during fighting in service with peace keeping missions abroad under governments orders will be classified as battle casualties.
  - (iv) **Accidental injuries and deaths occurring in action in an operational area will be treated as battle casualties.(Emphasis supplied).**
  - (v) Accidental injuries which are not sustained in action and are not in proximity to the enemy, if these have been caused by fixed apparatus (e.g. land mines booby traps, barbed wire or any other obstacle) laid as defences against the enemy, as distinct from those employed for training purposes and if the personnel killed, wounded or injured were on duty and are not to blame will be classified as battle casualties notwithstanding the place of occurrence or agency laying those, viz, own troops or enemy provided casualties occur within the time limits laid down by the government.
  - (vi) Saboteurs, even of own country will be treated as enemy for the purposes of classifying their action as enemy action, and encounters against them as encounters against the enemy.
  - (vii) All casualties during peace time as a result of fighting in war like operations or border skirmishes with a neighboring country will be treated as battle casualties.
  - (viii) Accidental deaths/injuries sustained due to natural calamities (such as floods, avalanches, and slides and cyclones) or drowning in river crossings at the time of performance of operational duties movements whilst in action against enemy force will be treated as battle casualties. (Emphasis supplied).
  - (ix) Reports regarding personnel wounded or injured in action will specify the nature of the wound or injury and will also state whether the personnel remained on duty.
  - (x) Reports on personnel missing in action will indicate if possible, their likely fate, e.g. believed killed, believed prisoner or war, believed drowned.
5. Battle Accident – Battle Accidents are those which take place in operational areas during the period of active hostilities but not in proximity to the enemy. (If the accident occurs in proximity to the enemy, it is classified as battle casualty).
6. Operational Area – Any geographical area occupied by a field force ordered to participate in specific operations / active hostilities against

an enemy or insurgents. It will include all the areas within which operations are intended to be conducted as well as the locations of its integral, logistical and administrative installations providing support to the field force.

7. Active Hostilities – Active Hostilities cover actual operations against the enemy, including preparatory activities, eg, reconnaissance and deployment prior to declaration of war and all military moves and measures subsequent to a cease fire.

8. Proximity to Enemy - Any area dominated by enemy by small arms fire or observation coupled with mortar / artillery shelling or patrolling and ambush or sabotage activities will come within the purview of this term.

9. Officers commanding Unit – An officer commanding a unit.”

14. A plain reading of clause (iv) of section 4 of the Army Order 1/2003 shows that accidental injuries in operational area are treated as battle casualties. Para 4 when read with para 5 of the Army Order (supra) shows that even accidental injuries which are not sustained in action and are not in proximity to the enemy but sustained on duty shall be classified as battle casualties notwithstanding the place of occurrence. All casualties suffered during peace time as a result of fighting in war like operations shall be treated as battle casualties. Needless to say that the injuries suffered by the applicant during Op Parakram. Op Parakram was war like operations wherein the applicant suffered injuries.

15. Para 5 of Army Order 1/2003 defines battle casualties, according to which accident taken place in operational area during the period in active hostilities not in the proximity to enemy, shall be deemed to be battle casualties like Op Parakram.

16. The operational area has been defined in para 6 which includes operational area or area within which operation is intended to be conducted. Such definition shall include the area where applicant suffered injuries during Operation Parakram. The combined reading of notes of Section 4, followed by Section 6, 7 & 8 establish that injuries suffered by the applicant is an instance of battle casualty and not physical casualty.

Para 69 of the Army Order 1/2003 deals with classification of injuries. For convenience sake the same is reproduced as under:-

“69. Cause and Nature of Injury – The classification of

wounded battle casualty will be guided by the parameters of cause/circumstances and the severity of injury sustained. Only when both these parameters are met, the casualty would be classified as a Battle Casualty.

- (a) Parameter No.1 – The cause or the circumstances under which the injury has occurred. These are -
- (i) Gun Shot Wound/ Splinter injuries sustained in action against enemy / militants. OR
  - (ii) Gun Shot Wound/Splinter injuries sustained accidentally / due to firing by own troops while carrying out operations against enemy / militants. OR
  - (iii) Mine Blast / IED blast injuries sustained in explosion of mines / IEDs caused by enemy / militants. Mines to included those planted by own troops against enemy. OR
  - (iv) Injuries sustained due to accidents because of natural / environmental reasons like avalanche, crevasse, landslides, flash floods etc. while in action against enemy / militants. OR
  - (v) Injuries sustained during enemy air raids, NBC warfare and hand-to-hand fights which are other than gunshot / splinter injuries must also be included.
- (b) Parameter No. 2 - The injury should at least be of grievous nature. The following will be governing factors :-
- (i) Emasculation
  - (ii) Permanent privation of the sight of either eye
  - (iii) Permanent privation of hearing of either ear
  - (iv) Privation of any member or joint
  - (v) Destruction or permanent impairing of the power of any member of joint.
  - (vi) Permanent disfiguration of the head or face.
  - (vii) Fracture or dislocation of a bone or tooth.
  - (viii) Any hurt, which endangers life or which causes the sufferer to be, during the space of 20 days, in severe bodily pain or unable to follow his ordinary pursuits.”

17. A collective reading of parameter No 1 deals with different situations with regard to injuries. Clause (iv) of parameter No 1 specifies injuries sustained due to accidents because of natural/environmental reasons like avalanche crevasse, landslides, flash floods etc while in action against enemy / militants. While rejecting the applicant’s case, the authorities concerned have failed to look into the provisions in its totality. Cause and nature of injuries under parameter No 1 has not been taken into consideration. Parameter No 2 seems to cover the applicant’s case. It provides the governing factors viz emasculation, permanent privation of the sight of either eye, permanent

privation of hearing of either ear, privation of any member or joint, destruction or permanent impairing of the power of any member of joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth and any hurt, which endangers life or which causes the sufferer to be, during the space of 20 days, in severe bodily pain or unable to follow his ordinary pursuits.

18. In **District Mining Officer vs. Tata Iron and Steel Co. (2001) 7 SCC 358** : Hon'ble Supreme Court has held that, function of the Court is only to expound the law and not to legislate. A statute has to be construed according to the intent of them and make it the duty of the court to act upon true **Intention of the legislature**. If a statutory provision is open to more than one interpretation, the court has to choose the interpretation which represents the true intention of the legislature.

19. In **Dadi Jagannadhan vs Jammulu Ramulu (2001) 7 SCC 71**: Hon'ble Supreme court has held that, while interpreting a statute the court must start with the presumption that legislature did not make any mistake and must interpret so as to carry out the oblivious intention of legislature, it must not correct or make up a deficiency, neither add nor read into a provision which are not there particularly when literal reading leads to an intelligent result.

20. In **Krishna vs. state of Maharashtra (2001) 2 SCC 441** : Hon'ble Supreme court has held that, in absence of clear words indicating legislature intent, it is open to the court, when interpreting any provision, to read with other provision of the same statute.

21. In **Essen Deinki vs. Rajiv Kumar (2002) 8 SCC 409**: Hon'ble Supreme court has held that, it is the duty of the court to give broad interpretation keeping in view the purpose of such legislation of preventing arbitrary action, however statutory requirement can not be ignored.

22. In **Grasim industries ltd. vs. Collector of Custom (2002) 4 SCC 297**: Hon'ble Supreme court has held that, while

*interpreting any word of a statute every word and provision should be looked at generally and in the context in which it is used and not in isolation.*

23. In **Bhatia international vs. Bulk trading S.A. (2002) 4 SCC 105**: Hon'ble Supreme court has held that, where statutory provision can be interpreted in more than one way, court must identify the interpretation which represents the true intention of legislature. While deciding which is the true meaning and intention of the legislature, court must consider the consequences that would result from the various alternative constructions. Court must reject the construction which leads to hardship, serious inconvenience, injustice, anomaly or uncertainty and friction in the very system that the statute concerned is suppose to regulate.

24. In **S. Samuel M.D. Harresons Malayalam vs, UOI (2004) 1 SCC 256**: Hon'ble Supreme court has held that, when a word is not defined in the statute a common parallence meaning out of several meanings provided in the dictionaries can be selected having regard to the context in which the appeared in the statute.

25. In **M. Subba Reddy vs. A.P. SRTC (2004) 6 SCC 729**: Hon'ble Supreme court has held that, although hardships can not be a ground for striking down the legislation, but where ever possible statute to be interpreted to avoid hardships.

26. In **Delhi Financial Corpn. Vs Rajiv Anand (2004) 11 SCC 625**: Hon'ble Supreme court has held that, legislature is presumed to have made no mistake and that it intended to say what it said. Assuming there is a defect or an omission in the words used by the legislature, the court can not correct or make up the deficiency, especially where a literal reading there of produces an intelligible result the court is not authorized to alter words or provide a casus omissus.

27. In **Deepal Girish bhai soni vs. United India insurance ltd. (2004) 5 SCC 385**: Hon'ble Supreme court has held that, statute to be read in entirety and purport and object of Act to be given its full effect by applying principle of purposive construction.

28. In **Pratap Sing vs. State of Jharkhand(2005) 3 SCC 551**: Hon'ble Supreme court has held that, interpretation of a statute depends upon the text and context there of and object with which the same was made. It must be construed having regard to its scheme and the ordinary state of affairs and consequences flowing there from – must be construed in such a manner so as to effective and operative on the principle of "ut res magis valeat quam pereat". When there is to meaning of a word and one making the statute absolutely vague, and meaningless and other leading to certainty and a meaningful interpretation are given, in such an event the later should be followed.

29. In **Bharat petroleum corpn. Ltd. vs. Maddula Ratnavali (2007) 6 SCC 81**: Hon'ble Supreme court has held that, Court should construe a statute justly. An unjust law is no law at all. Maxim "Lex in just non est."

30. In **Deevan Singh vs. Rajendra Pd. Ardevi (2007) 10 SCC 528**: Hon'ble Supreme court has held that, while interpreting a statute the entire statute must be first read as a whole then section by section, clause by clause, phrase by phrase and word by word the relevant provision of statute must thus read harmoniously.

31. In **Japani sahu vs. Chandra Shekhar Mohanty (2007) 7 SCC 394**: Hon'ble Supreme court has held that, a court would so interpret a provision as would help sustaining the validity of law by applying the doctrine of reasonable construction rather than making it vulnerable and unconditional by adopting rule of literal legis.

32. In **2010 (9) SCC 280, Zakiya Begum Vs. Shanaz Ali :** Hon'ble Supreme court has held that, an explanation to a section should normally be read to harmonise with and clear up any ambiguity in the main section and normally not to widen its ambit.

33. In **2010(7) SCC 129, Bondu Ramaswamy Vs. Bangalore Development Authority**: Hon'ble Supreme court has held that, vague and ambiguous provision – An interpretation that would avoid absurd results should be adopted – when the object

*or policy of a statute can be ascertained, imprecision in its language not to be allowed in the way of adopting a reasonable construction which avoids absurdities and incongruities and carries out the object or policy – A court cannot supply a real casus omissus nor can it interpret a statute to create a casus omissus when there is really none.*

34. Maxwell on the Interpretation of Statutes (12<sup>th</sup> edition page 36) opined as under:-

*"A construction which would leave without effect any part of the language of a statute will normally be rejected. Thus, where an Act plainly gave an appeal from one quarter sessions to another, it was observed that such a provision, though extraordinary and perhaps an oversight, could not be eliminated."*

35. The injuries sustained by the applicant are fully covered by parameter No 2, hence is an instance of battle casualties.

36. It is well settled proposition of law that while interpreting statutory provisions or beneficial provisions every clause of a statute should be construed with respect to the context and the other clauses of the Act, so far as possible to make a consistent interpretation of the whole statute or series relating to the subject. It is an elementary rule of construction that no provision of a statute should be construed in isolation but it should be construed with reference to the context and in the light of other provisions of the statute so as, as far as possible, to make a consistent interpretation of the whole statute.

37. A conjoint reading of the entire provisions of both the Army Orders regarding battle casualty (supra) would reveal that controversy in question is covered by the aforesaid provisions and the applicant seems to be entitled to be declared as 'battle casualty'. A plain reading of Note (vii) of Para 4 of the SAO

8/S/85 shows that even in peace time also in a war like operational situation if a defence personnel sustain casualties shall be classified as 'battle casualty'. Definition given in Note (vii) clearly covers the applicant's case. Note (viii) provides that in accidental injuries sustained due to natural calamities at the time of performing operational duties or movements shall also be treated as battle casualty. Note (viii) also supports applicant's case. Note (ix) stipulates that reports regarding personnel wounded or injured in action will specify the nature of wound or injury and shall also state whether the personnel remained on duty. Admittedly, the COI report indicates that the applicant was on bona fide military duty, when the accident occurred and not to blame anyone for the said incident. As per Note (iv) accidental injuries which occur in **action** in an operational area shall be treated as battle casualties. As per Black's Law Dictionary the word "**action**" means '**the process of doing something; conduct or behavior**' and '**thing done**'. It is an admitted fact that while the applicant sustained accidental injuries he was in the process of assigned military duty in the operational area of a war like situation under OP Parakaram. Therefore, Note (iv) and (ix) also support the applicant's case. Clause 7 of Section I of SAO 8/S/85 under the heading "Active Hostilities" provides that active hostilities cover actual operations against enemy, including preparatory activities, eg. reconnaissance and deployment prior to declaration of war and all military movements and measures subsequent to cease fire. Fact of the case reveals that the applicant sustained accidental injury while moving first and second line ammunition of 84 Armoured Regiment to Western Border of Indo-Pakistan in preparatory activities of war like situation under OP Parakram. In view of the above the applicant deserves to be

declared as Battle Casualty.

38. According to the respondents' own averment the Army Order 1/2003 is not applicable to classify applicant's injury as battle casualty as there was no provision to consider the case of retrospective casualties. Army Order 8/S/85 was in vogue when the accident occurred causing injury to the applicant on the fateful morning of 29 May 2002. While rejecting applicant's case the respondents authority failed to interpret the clarificatory Notes of Section 4 of SAO 8/S/85 under the heading "Battle Casualty" .

39. Respondents' first argument that the order of rejection (Annexure R2) was not impugned in the relief sought for in the application. The relief as sought for in the O.A. is reproduced hereunder :

*"A. Issue directions to the Respondents for converting the injury suffered by the petitioner on 29 May 2002 while carrying out a Military duty of moving of first and second line Ammunition of 84 Armoured Regiment from one Operational Location to another Operational Location during OPERATION PARAKRAM in field area from Physical casualty to a battle casualty.*

*B. Issue directions to the respondents to release all benefits of a battle casualty to the petitioner;*

*C. Issue directions to the respondents to release all the pensioner benefits to the petitioner as applicable to a Battle Casualty, on the superannuation of the petitioner;*

*D. Issue directions to the respondents to treat the petitioner at par with a battle casualty for getting re-employment in the Army after superannuation;*

*E. Respectfully pray that if the disposal of the prayer is not in the favour of the petitioner, the petitioner should be allowed and given a liberty to approach the appropriate forum."*

40. A plain reading of the reliefs hereinabove shows that the applicant did not make any prayer challenging the rejection order (Annexure R2). It is well settled provisions of law that Court or Tribunal has inherent power to mould the relief, if it is necessary for imparting substantial justice to the litigant. In view of the

above, we are satisfied that the order of rejection annexed at annexure R-2 to the counter affidavit should be the impugned order under challenge for converting the Physical Casualty to Battle Casualty and we mould the prayer accordingly for the ends of justice.

41. Before parting, this Court cannot resist observing that when individuals place their lives on peril in the line of duty, the sacrifices that they are called upon to make cannot ever be lost sight of through a process of abstract rationalization as appears to have prevailed with the respondents. This case amply demonstrates how for several years after OP Parakram, in the thick of which the applicant was deployed after having participated in a war like operational situation, his injuries was casually classified as those ordinarily suffered whilst proceeding on duty in a government vehicle. Though he operated under extremely trying circumstances, the respondents in a cavalier manner rejected the applicant's claim for treating him as Battle Casualty.

**ORDER**

42. In view of the above, the original application succeeds and is allowed. The impugned order dated 29 July 1015 is set aside. The applicant shall deemed to be treated as injured in operational area and his injury shall be converted from Physical Casualty to "Battle Casualty". The applicant is entitled to all consequential benefits of battle casualty. Let consequential benefits be provided within six months.

43. At this stage, Id. Counsel for the respondents made an oral prayer for leave to appeal before the Hon'ble Apex Court. We do not find any substantial question of law of general public importance has been pointed out which may make out a case for

grant of leave to appeal under Sec. 31 of the AFT Act, 2007. Accordingly the oral prayer made by the Id. Counsel for the respondents is rejected.

Plain copy of this order be handed over to both the parties.

**(Lt Gen Gautam Moorthy)**  
**Member(Administrative)**

**Justice Devi Prasad Singh**  
**Member (Judicial)**

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