

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

15.

MA 2054/2020 in OA 1334/2017

In the matter of :

Cdr Manisha Gehlaut

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Santhosh Krishnan, Advocate

For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

O R D E R
20.11.2020

Issue Notice on the application. Respondents may file their reply thereto within four weeks. Taking note of Para 96 (xi) of the judgement of Hon'ble Supreme Court passed on 17.03.2020 in Civil Appeal Nos. 2182-87 of 2020, which reads as under :

“96. We hold and direct that :

xxx xxx xxx

(xi) As a one-time measure, all SSC women officers who were before the High Court and the AFT who are not granted PCs shall be deemed to have completed substantive qualifying service for the grant of pension and shall be entitled to all consequential benefits.”

and after hearing learned counsel for the parties at length, we are of the considered view that the applicant's Original Application filed under Section 14 of the Armed Forces Tribunal Act, 2007 is pending consideration before this Court as O.A. No. 1334 of 2017, there is a stay on the discharge/release of the applicant by this Court awaiting the decision of the Hon'ble Supreme Court in Civil Appeal No. 2182-87 of 2020. Now the grievance of the applicant is that the benefit granted by the Hon'ble Supreme Court, i.e., pensionary benefits, is not extended and without extending the said benefit, the applicant is being discharged. *Prima facie*, we find much force in the aforesaid contention of the applicant.

Even though, Shri Bhati has made a two-fold contention to say that the applicant has been discharged yesterday afternoon, and, therefore, her discharge should not be stayed and further that the applicant is seeking pension only, and by referring to the judgement of the Hon'ble Supreme Court, he tried to argue that the applicant may not be entitled to pension also, which submission *prima facie* seems to be not correct, we are of the considered view that once the Hon'ble Supreme Court has fixed the timeline for implementing its judgment in its totality, without implementing that judgment

in its letters and spirit, the action of the respondents in discharging the applicant is unsustainable. Accordingly, we direct that the discharge of the applicant shall remain stayed till we are satisfied that the judgment of the Hon'ble Supreme Court is implemented in its letters and spirit.

List on **6th January, 2021.**

Copy of this order be given '***Dasti***'.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN P.M. HARIZ]
MEMBER (A)

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