

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

15.

OA 3994/2024 with MA 4207/2024 & 4208/2024

Sgt (Retd) Vinod Kumar Kataria & Ors. Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Vinod Kataria, proxy for
Mr. B P Vaishnav, Advocate
For Respondents : Mr. Sameer S. Sinha, Advocate
Sgt Pankaj Sharma, DAV

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
04.10.2024

MA 4208/2024

MA 4208/2024 has been filed by the 5 applicants seeking to join together to institute the present OA submitting to the effect that the relief prayed for by each of them is based on the same cause of action, submitting to the effect that the excess amount of recovery has been effected from the commuted value of pension. Counsel presents submits that he represents all the 5 applicants. In view thereof the application MA 4208/2024 is allowed and all the 5 applicants are allowed to join together to institute the present OA.

MA 4207/2024

2. Along with the OA is MA 4207/2024 filed on behalf of the applicant seeking condonation of 221 days delay in filing the

present OA for reasons mentioned therein. In the interest of justice, in view of the judgments of the Hon'ble Supreme Court in the matter of *UoI & Ors Vs Tarsem Singh* 2009(1) AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 and the reasons mentioned, the MA 4207/2024 is allowed and the delay of 221 days in filing the OA is thus condoned. The MA is disposed of accordingly.

OA 3994/2024

3. The applicant vide the present OA makes the following prayers:-

- “(a) To issue/pass an order or direction of appropriate nature to the respondents directing them to stop any further deduction on account of recovery of commuted value of pension with immediate effect with regard to Hon’ble AFT (PB) order dated 29.05.2024 (Annexure-A/6) passed in OA NO. 1849/2024 titled as Ex POELR Mahendra Pratap Singh Vs. UoI & Ors. and Hon’ble Punjab & Haryana High Court at Chandigarh order dated 31.05.2024 passed in CWP-13992/2024 & 13989/2024 (Annexure-A7(Colly));*
- (b) To direct the respondents to refund the extra instalments recovered from the applicant since completion of the recovery to till finalization of the case;*
- (c) To issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstance of the case.”*

4. Along with the same is also a prayer seeking grant of interim relief to the effect:-

- “To direct the respondents to stop further recovery from pension of the applicant with immediate effect and restore the full pension till final disposal of the Original Application.”*

5. Notice of OA is issued to the respondents and accepted on their behalf. In as much as a period of 15 years from the date of retirement has to elapse for all the five applicants presently the prayer made seeking grant of interim relief cannot be granted granted in view of the order dated 11.09.2024 of the Hon'ble High Court of Delhi in Writ Petition (C) 12781/2024.

6. Pleadings in the matter be completed by either side within a time frame of three months and the matter be listed before the Joint Registrar on **14.10.2024** for completion of pleadings and thereafter the matter be re-notified after disposal of the W.P. (C) 12781/2024 by the Hon'ble High Court of Delhi. However, *qua* the applicant No. 5 in as much as his date of retirement is stated to be 31.12.2009 the matter be re-notified on **03.01.2025** for consideration of his prayer seeking grant of interim relief.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

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