

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

6.  
OA 956/2024 with MA 1179/2024

Wg Cdr Sujata Dwivedi (Retd) & Ors. .... Applicant

VERSUS

Union of India and Ors. .... Respondents

For Applicant : Ms. Pallavi Awasthi, Advocate  
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC with  
Mr. Yogeshwar Krishna, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
20.03.2024

On behalf of the applicant nos. 1 to 23 the prayers made  
vide the present OA are to the effect:-

*i. Direct the Respondents to grant/extend pensionary benefits to the Applicants under the principles of parity in terms of judgment dated 16.11.2022 passed by Hon'ble Supreme Court in Civil Appeal Nos 79- 82 of 2012 titled as Wg Cdr A U Tayyaba (Retd) and Others; and/or*

*ii. Pass any other and further order (s) and direction (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.*

Along with the same is MA 1179/2024 filed by the applicants seeking to join together to institute the OA submitting to the effect that their submissions are premised on the same cause of action and that the nature of relief and interest is common to all the applicants.

2. In view of the averments that have been made in the synopsis and list of dates and events and as averred in para (vi) at

page 23 of the OA, the applicant no. 1 Wg Cdr Sujata Dwivedi has averred in the synopsis that she served for 15 years of service and that the applicant no. 6 Wg Cdr Indu Dinesh Nair also has completed 15 years of service.

3. In these circumstances, counsel for the applicant seeks to withdraw the present OA on behalf of the applicant nos. 1 and 6 seeking liberty to file the OA afresh qua the said applicants in accordance with law. The said prayer is allowed and the OA 956/2024 qua **applicant nos. 1 and 6** is dismissed as withdrawn with liberty granted as prayed.

4. As regards applicant nos. 2 to 5 and 7 to 23, in view of submission made on behalf of the said applicants that their representations are still pending before the respondents, the respondents are directed to dispose of the applications filed by the applicant nos. 2 to 5 and 7 to 23 who are permitted to join together in the institution of the present OA, within a period of two months. It would be open to the said applicants to seek redressal in accordance with law, if any, if aggrieved thereby.

5. The OA is disposed of accordingly.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)

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

32.

MA 1706/2024 in OA 956/2024

Wg Cdr Sujata Dwivedi (Retd) & Ors. .... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Ms. Shweta Shandliya, proxy for  
Ms. Pallavi Awasthi, Advocate  
For Respondents : Mr. Yogeshwar Krishna, proxy for  
Gp Capt Karan Singh Bhati, Sr CGSC

CORAM

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

ORDER  
26.04.2024

1. MA 1706/2024 has been filed by the applicants thereof seeking modification of order dated 20.03.2024 in OA 956/2024 with the following prayers:-

*"i. Direct the Respondents to grant/extend pensionary benefits to the Applicants under the principles of parity in terms of judgment dated 16.11.2022 passed by Hon'ble Supreme Court in Civil Appeal Nos 79- 82 of 2012 titled as Wg Cdr A U Tayyaba (Retd) and Others; and/or  
ii. Pass any other and further order (s) and direction (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice."*

Notice thereof is indicated to have been received in advance of behalf of the respondents and it is submitted on behalf of the respondents that there is no objection to the prayers.

2. Vide order dated 28.03.2024 in OA 956/2024 it was directed to the effect:-

*“On behalf of the applicant nos. 1 to 23 the prayers made vide the present OA are to the effect:-*

- i. Direct the Respondents to grant/extend pensionary benefits to the Applicants under the principles of parity in terms of judgment dated 16.11.2022 passed by Hon'ble Supreme Court in Civil Appeal Nos 79- 82 of 2012 titled as Wg Cdr A U Tayyaba (Retd) and Others; and/or*
- ii. Pass any other and further order (s) and direction (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.*

*Along with the same is MA 1179/2024 filed by the applicants seeking to join together to institute the OA submitting to the effect that their submissions are premised on the same cause of action and that the nature of relief and interest is common to all the applicants.*

*2. In view of the averments that have been made in the synopsis and list of dates and events and as averred in para (vi) at page 23 of the OA, the applicant no. 1 Wg Cdr Sujata Dwivedi has averred in the synopsis that she served for 15 years of service and that the applicant no. 6 Wg Cdr Indu Dinesh Nair also has completed 15 years of service.*

*3. In these circumstances, counsel for the applicant seeks to withdraw the present OA on behalf of the applicant nos. 1 and 6 seeking liberty to file the OA afresh qua the said applicants in accordance with law. The said prayer is allowed and the OA 956/2024 qua applicant nos. 1 and 6 is dismissed as withdrawn with liberty granted as prayed.*

*4. As regards applicant nos. 2 to 5 and 7 to 23, in view of submission made on behalf of the said applicants that their representations are still pending before the respondents, the respondents are directed to dispose of the applications filed by the applicant nos. 2 to 5 and 7 to 23 who are permitted to join together in the institution of the present OA, within a period of two months. It would be open to the said applicants to seek redressal in accordance with law, if any, if aggrieved thereby.*

*5. The OA is disposed of accordingly.”*

3. It has been submitted on behalf of the applicant nos. 2,21,22,23 as were arrayed in OA 956/2024, that they have completed the qualifying length of service with more than 14 years of service along with the applicant nos. 1 & 6 and they thus seek to file a fresh OA in terms of order dated 28.03.2024 apart from also seeking that they be allowed to join applicant no.1 and 6 for filing a fresh OA in terms of Para-3 of the order dated 20.03.2024 in OA 956/2024 already reproduced herein above.

4. To the extent that the prayer is made by the applicant nos. 2,21,22,23 arrayed to OA 956/2024 i.e. applicants of MA 1706/2024 that they be permitted to withdraw from OA 956/2024 to file the fresh OA in accordance with law, the prayer made is allowed and the order dated 20.03.2024 is modified to that extent.

5. As regards the prayer that has been made by the applicant nos. 2, 21,22,23 of OA 956/2024 that is the applicants to the present MA 1706/2024 that they be allowed to join applicant no. 1 & 6 by filing a fresh OA in terms of order dated 28.03.2024, the aspect of whether the applicants herein would be permitted to join together with other applicants is a matter to be considered by the concerned Court when an application is filed to that effect in the OA if any filed. MA 1706/2024 is disposed of accordingly.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)