

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

15.

OA 4034/2024 with MA 4294/2024

Lt Col R S Gursey (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. B L Verma, Advocate
For Respondents : Mr. Neeraj, Sr CGSC
Mr. Abhishek Kumar, OIC Legal

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER
07.10.2024

MA 4294/2024

This is an application filed under section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 3327 days in filing the present OA. 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 4294/2024 is allowed and the delay of 3327days in filing the OA 4034/2024 is thus condoned. The MA is disposed of accordingly.

OA 4034/2024

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

(a) *Direct the Respondents to calculate the excess recovered amount. As per the applicant, the recovered commuted value was Rs. 9,350 Plus interest on commuted pension that time; as Hon'ble Court -2 of this Tribunal has passed an order in the matter of AVM(Retd) SK Gagneja Accts v/s UOI,OA_2366/2024 order dated 22-07-2024 (Page 33-35) for stay of further recovery of*

commuted value and accepted for refund of excess commuted recovered amount. and/or

(b) Direct the Respondents to refund the extra instalments with interest as applicable so recovered from the Applicant wef 01 July 2015 i.e. after 11 years and six months of recovery or any other earlier date as decided by the Hon'ble Tribunal; and

(c) Pass any other order/orders as deemed appropriate by this Hon'ble Tribunal in the facts and circumstances of the present case.

3. The date of discharge of the applicant is stated to be 31.12.2003 and the applicant has thus completed more than 15 years post retirement. In terms of the judgment of the Hon'ble High Court of Delhi in *Forum of Retired IPS Officers (FORIPSO) vs. Union of India and Others* reported in 2019 SCC Online Delhi 6610, and the implicit spirit of the order of the Hon'ble High Court of Delhi dated 11.09.2024 in WP(C) 12781/2024 and further recovery of commuted value of pension from the applicant by the respondents is stayed.

4. Notice of the OA is issued to the respondents and accepted on their behalf. Pleadings in the matter be completed by either side, before the next date of hearing fixed i.e 30.10.2024 when all matters with similar issues are to be taken up.

Copy of this order be given *DASTI* as prayed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN C P MOHANTY)
MEMBER (A)