

COURT NO. 2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA 64/2023 in OA 552/2016

Ex AC 2 Budh Prakash **Applicant**
Versus
Union of India & Ors. **Respondents**

For Applicant : Mr. VS Tomar, Advocate
For Respondents : Mr. K K Tyagi, Advocate

CORAM:

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

ORDER

This is an application filed by the applicant under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 seeking review of the order of this Tribunal dated 23.11.2023 in O.A No.552/2016 and the prayer made therein read as under:

“in view of the above, para 22 of the order/judgment dated 23 November 2023 passed in the above OA be suitably amended to pay arrears to the applicant wef 01 January 1973 and/or 28 October 2010.”

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CONTENTIONS OF THE PARTIES

2. Through this application, it is submitted by the applicant that there is an error apparent on the face of record as per the judgment of the Hon'ble Supreme Court in *Union of India & Ors. Vs. Ex Gnr Sinchetty Satyaranayan & Ors. [S.L.P. No. 20868 of 2009 decided on 23.03.2012]*, based on which the OA was allowed, relevant portion of which has been reproduced in para-9 of the order passed on 23.11.2023. It is further submitted that the judgment of the Hon'ble Supreme Court very specifically says that, "*grant the benefit of service element w.e.f 01.01.1973*" and it does not say that it will be given from the date of judgment. The applicant has placed the judgment of the Hon'ble Supreme Court as Annexure A-5 to the review application and submitted that the duty to implement this judgment was placed on the respondents.

3. It is also submitted on behalf of the applicant that the applicant had filed OA 293/2014 which was to be taken as representation from the applicant, though the applicant had filed a representation dated 28 October 2013 in which reference

was made to ca/2942/2009, by this also the applicant would be entitled to arrears three years prior to filing of representation dated 28.10.2013.

4. The respondents reiterated that the arrears are to be restricted to three years from the date of filing of OA 552/2016 in view of the law laid down in ***Union of India & Ors. Vs. Tarsem Singh [2009 (1) AISLJ 371]***.

ANALYSIS

5. From the records, it has been established that OA 293/2014 with MA 324/2014 was filed by the applicant in the AFT (PB), New Delhi which was disposed of vide order dated 30.05.2014. Para-3 of the said order reads as follows:-

3. In view of the above, this OA is disposed of with a direction to the respondents to decide the representation dated 21st October, 2013 of the petitioner, and if the representation is not available, the copy of the representation placed on record of this OA be considered as a representation and appropriate orders may be passed after examining the orders of the Hon'ble Supreme Court

in the case of Hoshiar Singh. If the petitioner is found to be entitled to the relief, the same may be granted to the petitioner expeditiously, and if found not eligible for the relief, a brief reasoned order be communicated to the petitioner. If the petitioner feels aggrieved against the order of the respondents, the petitioner will be free to approach the Tribunal for appropriate relief.”

6. From the above, it is clearly established that the OA 293/2014 which was filed on 28.05.2014, was disposed of on 30.05.2014 directing the respondents to dispose off the representation of the applicant as brought out in Para 6 above.

7. The OA 552/2016 was disposed off vide order dated 23.11.2023 by granting the relief to the applicant with effect from the date of his invalidment. However, the arrears of the invalid pension were restricted to commence to run from three years prior to the date of filing of OA 552/2016

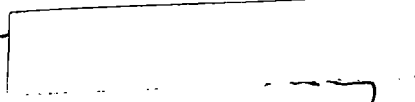
8. Since the reliefs claimed in OA 293/2014 and OA 552/2016 are substantially the same and issue was raised on 28.05.2014 vide OA 293/2014, it would be appropriate to grant

the arrears from three years prior to 28.05.2014 as the same issue was first raised on 28.05.2014 vide OA 293/2014.

9. In view of the above, RA 64/2023 is allowed and the arrears of the invalid pension be granted to the applicant from three years prior to 28.05.2014, the date when the issue was first raised by way of filing the OA 293/2014. The order dated 23.11.2023 in OA 552/2016 is reviewed to the above extent.

Pronounced in the open Court on this 26th day of July 2024.


[REAR ADMIRAL ~~DHIREN VIG~~]
MEMBER (A)


[JUSTICE ANU MALHOTRA]
MEMBER (J)