

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

20.

RA 26/2023 in MA 2720/2023 , 4202/2024 & 4203/2024 in
OA 395/2016

UOI & Ors Applicant
VERSUS
Ex Sub Mohan Singh Respondents

For Applicant : Ms. Jyotsna Kaushik, Advocate
Maj Satvik Grover, OIC Legal
For Respondents : None
Ms. Anjali Vohra, Advocate (A.C)

CORAM

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

ORDER
06.02.2025

MA 4203/2024

MA 4203/2024 has been filed under Rule 19(i) read with Rule 25 of the AFT Procedure Rules, 2008 read with Rule 151 of the Code of Civil Procedure by the applicants thereof, that is Smt. Paramjit Kaur, Ms. Dalvinder Kaur and Ms. Sumandeep Kaur which Smt. Paramjit Kaur being the widow of the deceased Ex Sub Mohan Singh and the other two being his daughters seeking condonation of delay of 1222 days in institution of the said application to be brought on record as the legal representatives of the deceased Ex Sub Mohan Singh qua reliefs in OA 395/2016. In the interest of justice, the said application is allowed and delay condoned.

MA 4202/2024

2. MA 4202/2024 has been filed by the applicants that is Smt. Paramjit Kaur, Ms. Dalvinder Kaur and Ms. Sumandeep Kaur as the legal representative of the deceased Ex Sub Mohan Singh who expired on 19.02.2021 seeking that Smt. Paramjit Kaur be allowed to be substituted in his place, in as much as the two daughters of Smt. Paramjit Kaur have no opposition to the grant of reliefs to Smt. Paramjit Kaur in place of the deceased. The factum of the demise of Ex Sub Mohan Singh is not refuted by the respondents to this application and rather RA 26/2023 was filed by the respondents to the OA 395/2016 to bring on record the factum of demise of Ex Sub Mohan Singh on 19.02.2021 much prior to the disposal of the OA 395/2016 which was disposed of on 14.03.2023.

3. Apparently, thus the legal representatives of the deceased Ex Sub Mohan Singh have to be brought on record and in view of the no objection of the two daughters of the deceased that Smt. Paramjit Kaur be substituted in his place, the application MA 4202/2024 is allowed to the extent that Smt. Paramjit Kaur is allowed to be substituted in place of Late Ex Sub Mohan Singh in OA 395/2016. MA 4202/2024 is disposed of, accordingly.

MA 2720/2023

4. MA 2720/2023 has been filed by the Union of India and other respondents arrayed to OA 395/2016 seeking condonation of 85 days delay in institution of the application seeking review of

the order dated 14.03.2023 in OA 395/2016 without treating it as a precedent in the facts and circumstances of the instant case where the applicant of the OA 395/2016 had in fact expired even before the date of pronouncement of the orders dated 14.03.2023 in OA 395/2016 in the peculiar circumstances of the instant case, the delay in institution of the RA 26/2023 by the Union of India & Other respondents is condoned.

RA 26/2023

5. RA 26/2023 has been filed by the Union of India and other respondents that had been arrayed to OA 395/2016 seeking that the order dated 14.03.2023 in OA 395/2016 be recalled and reviewed. The reasons that the applicants of the application have put forth for seeking a review of the order dated 14.03.2023 in OA 395/2016 are to the effect that the applicant of the said OA had expired on 19.02.2021 and the legal heirs had not sought substitution prior to disposal of the OA 395/2016.
6. It has further been submitted vide Para 3 of this application that the directions regarding grant of the arrears of disability element of pension etc., are required to be revisited by this Tribunal especially when the non-payment of the arrears entails interest @6% p.a. payable by the applicants to the RA.
7. Vide order dated 14.03.2023 in OA 395/2016, the prayers made by the applicant thereof, Ex Sub Mohan Singh (since deceased) were allowed to the extent that applicant was granted disability element of pension @50% with effect from the date of

his retirement i.e. 30.11.2009. However, in terms of the verdicts of the Hon'ble Supreme Court in *UoI & Ors Vs. Tarsem Singh* 2009(1)AISLJ 371 the arrears of the disability element of pension qua that applicant were directed to be confined to commence to run three years prior to the institution of the OA instituted on 15.03.2016 and the respondents were directed to issue the corrigendum PPO to that applicant granting disability element of pension @50% within three months from the date receipt of the order failing which the arrears would carry interest @6% p.a.

8. In as much as, the OA has been allowed for the grant of the disability element of pension to the extent as permitted thereby, apparently the grant of disability element of pension can run only till the period of the life of the applicant of OA 395/2016 who has since expired admittedly, as brought forth on behalf of either side on 19.02.2021 through the death certificate dated 05.03.2021 issued by the Govt. of NCT of Delhi which is a public document indicating the demise of the applicant of OA 395/2016 on 19.02.2021 and also bringing forth the name of his wife Smt. Paramjit Kaur.

9. In view thereof, the order dated 14.03.2023 in OA 395/2016 is modified to the extent that the prayer made by the applicant of OA 395/2016 for the grant of the disability element of pension @50% with effect from the date of his retirement that is 30.11.2009 shall be payable till the date of his demise i.e. 14.02.2021. However, in terms of the verdict of the Hon'ble

Supreme Court in *UoI & Ors Vs. Tarsem Singh* 2009(1)AISLJ 371 the arrears of the grant of the disability element of pension has already deducted vide order dated 14.03.2023 in OA 395/2016 shall commence to run from a period of three years prior to the institution of the OA instituted on 15.03.2016. All other directions in the order dated 14.03.2023 in OA 395/2016 shall continue and shall be complied with by the Union of India & other respondents arrayed to OA 395/2016.

10. Thus, RA 26/2023 is disposed of.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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