

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 2043/2021

Cdr Vidyashree (Retd) Applicant
Versus Respondents
Union of India & Ors.

WITH

OA 2148/2021

Lt Cdr Pushpa Pandey(Retd) Applicant
Versus Respondents
Union of India & Ors.

For Applicants : Mr. Santhosh Krishnan, Advocate
For Respondents : Mr. Jagdish Chandra, Advocate

Order reserved on 28.11.2025

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

As the present matters arise out of similar facts and involve identical question of law, they are being disposed of by this common order. For the sake of brevity, O.A. No.2043/2021 is taken as the lead case, and its facts are discussed hereinbelow in detail.

2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 the applicant, a Short Service Commission (SSC) officer in the Indian Navy who has been discharged from service and was not granted permanent commission, claims pensionary benefits in accordance with the

directions issued by the Hon'ble Supreme Court in the case of *Union of India and Ors. v. Cdr. Annie Nagaraja & Ors.* in CA No.2182-87/2020 decided on 17.03.2020. The applicant claims pensionary benefits in accordance to the directions contained in para 96 (x) and 96(xi) of the said judgment. The prayers made in para 8 of the OA read as under:-

“(a) Direct the Respondents to sanction and release pension to the Applicant, in accordance with the judgement dt. 17.03.2020 in CA Nos. 2182-2187/2020 (Union of India v. Annie Nagaraja & Ors.) of the Hon'ble Supreme Court;

(b) Direct the payment of arrears of pension payable, with interest @ 18% p.a. for delay in payment, delay calculable from date of entitlement to draw pension.”

3. The applicant, Cdr. Vidyashree (Retd.) in OA No.2043/221 was commissioned as a Short Service Commission Officer in the Indian Navy on 29.08.1998. On 26.09.2008, the Govt. of India issued a policy letter restricting eligibility for permanent commission in the Indian Navy only to three cadres/branches including education branch but the policy was to be implemented only for batches commencing from the year 2009. The implementation guidelines dated 03.12.2008 were also issued in the matter of implementation of the policy letter dated 26.09.2008. Based on this policy, applicant Cdr. Vidyashree on 13.07.2010, sought extension of service. This was rejected on 27.01.2011 and

the applicant was released from service on 29.08.2012. The applicant had rendered continuous service from 29.08.1998 and was granted two extensions of service after her original tenure of ten years. Even though, her period of 14 years service was to expire in 2012, the applicant was released from service on completion of the aforesaid tenure of 14 years without granting Permanent Commission. It is also stated that even her request for re-employment was rejected by the respondents vide order dated 27.01.2011(Annexure A-7). Meanwhile, women SSC officers including certain officers from the Education Branch, moved the Hon'ble Delhi High Court agitating their grievance with regard to non consideration of their claim for grant of Permanent Commission in the Indian Navy and the policy prohibiting their consideration issued on 26.09.2008 was also challenged. Many cases were filed and the lead matter in all these batch cases was *Anni Nagaraja vs. Union of India & Ors.* in WP(C) 7336/2010.

4. According to the applicant, the petitioner therein Annie Nagaraja was also commissioned on 08.01.1999, just four months after the applicant in the education branch. Vide judgment (Annexure A-8) dated 04.09.2015, the Delhi High Court allowed various petitions filed by women SSC officers on the issue of permanent commission. Based on the judgment, the applicant,

Cdr. Vidyashree again claimed grant of permanent commission and sought reinstatement in service vide her request letter dated 07.09.2015(Annexure A-9). However, when this was not granted the applicant along with four other officers from the education branch sought reinstatement in service by invoking the jurisdiction of this Tribunal by filing OA No.783/2015. While the said OA was pending before this Tribunal, OA No.143-149/2016 *-Priya Khurana and Ors. v. Union of India and Ors.* vide Order dated 11.08.2016 (Annexure A-10) was allowed by a coordinate bench of this Tribunal , this Tribunal reiterated that the policy dated 26.09.2008, restricting prospective consideration of claim for permanent Commission, was illegal. However, the Original Application filed by the applicant herein i.e. OA No.783/2015 was dismissed by a coordinate bench of this Tribunal on the ground of limitation. In para 20 of the Order the following directions were given:-

“20. Since the matter regarding the grant of Permanent commission is still pending final adjudication before the Hon’ble Supreme Court, therefore, these cases were adjourned repeatedly on the request of the either parties for awaiting outcome of the same. The final outcome would have given the indication whether the permanent commission can be given to the officers whose tenure has already come to an end. Since the matter is likely to take some time, we feel these matters are unnecessarily chocking the board of this Tribunal.

21. For the reasons ascribed above, the prayer for reinstatement in service and grant of Permanent

Commission is untenable in law. Accordingly, the application is dismissed. No order as to costs.”

5. As far as the applicant, Cdr. Vidyashree, is concerned, her grievance was not being considered, meanwhile, on 17.03.2020, the Hon’ble Supreme Court decided both the cases, namely, *Union of India & Ors. v. Lt. Cdr Annie Nagaraja and Ors.* and *Union of India and Ors. v. Cdr. Priya Khurana* in CA No. 2182-87/2020, as the Union of India had challenged the Orders passed by this Tribunal and the Delhi High Court in the cases of Annie Nagaraja and Priya Khurana before the Hon’ble Supreme Court. In its judgment rendered on 17.03.2020, the Hon’ble Apex Court quashed the policy letters dated 03.12.2008 and 26.09.2008 to the extent that they were given prospective implementation and the restriction imposed by them to a specified cadre. The Hon’ble Supreme Court in para 96 held as under:-

“96(iii) The stipulation in the policy letter dated 26 September 2008 making it prospective and restricting its application to specified cadres/branches of the Indian Navy shall not be enforced;

(iv) The provisions of the implementation guidelines dated 3 December 2008, to the extent that they are made prospective and restricted to specified cadres are quashed and set aside.”

6. It was held by the Hon’ble Supreme Court in the aforesaid case that the women Short Service Commission officers are entitled to be considered for grant of permanent commission in terms of

policy letter dated 25.02.1999 read with Regulation 203 of the Naval Regulations. The judgment of the Hon'ble Supreme Court mandates consideration for Permanent Commission and that apart provides for a one-time benefit of deemed completion of pensionable service to SCC Women officers who were not granted Permanent Commission. The Hon'ble Supreme Court in the case of Annie Nagaraja(supra) in its judgment vide para 96 issued various directions. The directions contained in para 96(x) and (xi), which are relevant for the issue before this Tribunal read as under:

“(x) All SSC women officers who were denied consideration for the grant of PCs on the ground that they were inducted prior to the issuance of the letter dated 26 September 2008 and who are not presently in service shall be deemed, as a one-time measure, to have completed substantive pensionable service. Their pensionary benefits shall be computed and released on this basis. No arrears of salary shall be payable for the period after release from service;

(xi) As a one-time measure, all SSC women officers who were before the High Court and the AFT who are not granted PCs shall be deemed to have completed substantive qualifying service for the grant of pension and shall be entitled to all consequential benefits;”

7. Applicant claims benefit of pension in accordance with the aforesaid directions of the Hon'ble Supreme Court.

8. It is the case of the applicant that she satisfies the requirement of para (x), inasmuch as the only reason why she was denied Permanent Commission while in service was that as she was

inducted prior to policy letter 26.09.2008, therefore, she was barred from applying for Permanent Commission at the relevant time. Even though she made an application for re-employment before her release, the same was rejected.

9. Learned counsel for the applicant apart from relying upon the judgment in the case of *Annie Nagaraja*(supra) argued that the applicant agitated her claim for non grant of Permanent Commission by filing a case before this Tribunal in OA No.783/2015 which clearly indicated her intention to continue in service beyond 14 years both when her SSC tenure was in continuation and subsequent that to. Unfortunately, the OA was dismissed on the ground of the **issue being *subjudice*** before the Hon'ble Supreme Court on 08.11.2017. The grievance of the applicant is that dismissal of the OA does not diminish the applicant's entitlement under para 96(x) and (xi) of the Supreme Court judgment in the case of *Annie Nagaraja*.

10. Learned counsel further invites our attention to a communication dated 06.04.2021 issued by the integrated Headquarters of Ministry of Defence(Navy), wherein Cdr. Reena Magdalene who is one of the applicants in OA No.783/2015 had been granted pensionary benefits.

Brief facts of OA No.2148/2021

11. The applicant herein i.e. in OA No.2148/2021 was commissioned in the Indian Navy as a Short Service Commission Officer (SSC) on 12.08.2022 in the ATC Cadre, Executive Branch. She secured two extensions of service as such her original SSC tenure of 10 years stood extended to 14 years. Much before release which was scheduled for 12.08.2016, the applicant expressed her willingness to continue in service vide representation dated 15.10.2015 and sought permanent commission, however, the same was rejected vide letter 21.01.2016 on the ground that the applicant was not eligible for permanent commission as per the extant Regulation/Policy.

12. Having regard to the Delhi High Court's judgment in Annie Nagaraja's case, Article 203 of the Naval Regulations and the Policy dated 25.02.1999, eight officers in the Navy, including the applicant approached this Tribunal by filing various OAs seeking favourable consideration for permanent commission. The matter was agitated by these applicants in the case of *Cdr. Priya Khurana v. UOI and Ors.* (OA No.143/2017 and batch). The applicant's (Lt. Cdr. Pushpa Pandey(Retd.) case was OA No.147/2016. The prayer for interim relief was denied to the applicants. Thereafter, on

declaration of law, the decision of the court should be implemented to all similarly situated persons without insisting upon each one to agitate their matter before the Court.

17. Learned counsel further invited our attention to an Order passed by a Co-ordinate Bench of this Tribunal on 15.04.2023 in TA No.1/2022 *Cdr. Jaya Kapoor & Ors. v. Union of India & Ors.* and the findings recorded in para 16 to 19 thereof to say that the cases of the applicants are identical to that of *Cdr. Jaya Kapoor* and the applicants are also entitled to the same benefit as has been granted to the applicants in the aforesaid case. Accordingly, contending that the applicants are also entitled to the relief as claimed in these OAs, learned counsels argued at length by taking us through the judgments relied upon by them in support of their contention.

18. Respondents have filed a detailed counter affidavits and denied the claim and argued that the applicants never agitated the policy which promulgated consideration of only male candidates for grant of Permanent Commission in the Executive branch in the Navy. It is argued that the applicants never agitated against this policy either before the naval authorities or any legal forum till passing of the judgment by the Hon'ble Delhi High Court in the year 2015 and the Hon'ble Supreme Court on 17.03.2020.

13.07.2016 the applicant withdrew her OA and was released from service on 12.08.2016.

13. Eventually, this Tribunal allowed the batch of OAs Nos. 143-146/2016, OA No.149/2016 (*Priya Khurana v. UOI etc.*).

14. After the decision of the Hon'ble Supreme Court dated 17.03.2020 in the case of *Union of India v. Annie Nagaraja, Union of India v. Priya Khurana*, CA Nos. 2182-87/2020, the applicant herein also claims the benefit of pension as has been granted to other similarly situated women SSC officers.

15. It is the case of the applicants that when similarly situated persons/officers have been granted pensionary benefits by the respondents, applicants in both these OAs and various other officers are also entitled to the same in the light of the judgment passed by the Hon'ble Supreme Court in the case of Annie Nagaraja in terms of para 96 (x) and (xi).

16. Learned counsel for the applicants also invited our attention to the recent judgment rendered by the Hon'ble Supreme Court in the case of *Lt. Col. Suprita Chandel v. Union of India and Ors.* (2024) SCC Online SC 3664, to argue that it is a settled principle of law that citizens who have agitated their matters before the Govt. and had approached the court and have obtained a

19. Respondents referred to the judgment of Annie Nagaraja and Priya Khurana (Supra) and reiterated their contention to say that the applicants are not entitled to the said benefit. As far as the claim of the applicants based on the judgment in the case of Annie Nagaraja is concerned, respondents relied upon the judgment passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.1480/2020 in the matter of *Cdr. T Rajkumar v. Union of India and Anr.* and argued that the relief granted in the case of Annie Nagaraja (supra) in the matter of granting pensionary benefit is under Article 142 of the Constitution and the applicants cannot claim the said benefit as they did not agitate the claim by invoking the jurisdiction of this Tribunal or the High Court and even when the claim was agitated by them, the same was denied by this Tribunal in OA No.783/2015 and OA No.147/2016 and once the claim was rejected by this Tribunal in the said OAs and the applicants did not agitate the matter any further, they cannot claim any benefit now.

20. Respondents tried to argue that the judgment in the case of Annie Nagaraja and the directions contained in para 96(x) and (xi) will not apply to the case of the applicants and, therefore, they are not entitled to any benefit.

21. We have heard the learned counsel for the parties at length and perused the records in detail. As far as the facts with regard to the case as narrated by the applicant in the lead case is concerned, it is clear that the applicant was commissioned in the Indian Navy on 29.08.1998. The Govt. of India issued a policy on 26.09.2008 restricting eligibility for permanent commission to three branches in the Indian Navy which included Education Branch.

22. Regulation 203 Chapter IX part 3 of the 1963 Naval Regulation stipulates that a Short Service Commission Officer of the Indian Navy is entitled for consideration of Permanent Commission subject to suitability, vacancy and recommendation of the Chief of the Naval Staff and thereafter the Ministry of Defence, Govt. of India issued the policy letter dated 25.12.1999 recognizing right of women Short Service Commission officers to seek permanent commission in terms of regulation 203.

23. Applicant in OA No.2043/2021, Cdr. Vidyashree was commissioned on 29.09.1998 in the Education branch. She secured two extensions and her services as a Short Service Commission Officer were extended for a period of 14 years. When the policy letter dated 26.09.2008 came into force, the same permitted Navy to prospectively consider women SCC officers in

Education branch for grant of permanent commission. The right for SSC officers of the Education Branch to be considered for permanent commission came into force on 26.09.2008 and after implementation, instructions and guidelines were issued on 03.12.2008. Eligibility for consideration for permanent commission to Education branch officers accrued only to officers commissioned from the year 2009. The applicant's 14 years were scheduled to expire in August 2012 and as the applicant was interested in pursuing her career with the Indian Navy, she time and again sought grant of permanent commission but the same was denied to her and even her claim for extension vide letter dated 13.10.2010 (Annexure A-6) was rejected on 27.01.2011 and the applicant was accordingly released on completing 14 years of SSC on 29.08.2012. In the meanwhile, the matter went into litigation at the instance of various SSC officers including the Education branch officers who moved the Delhi High Court in the case of Annie Nagaraja (supra) and challenged the policy letter dated 26.09.2008 granting prospective effect to this policy. Vide judgment dated 04.09.2015 in WP(C) No.7336/2010, the Delhi High Court allowed various petitions of SCC women officers and held the policy to be unsustainable in law. It is after this judgment that the applicant invoked the jurisdiction of this Tribunal in OA

No.783/2015 along with four other applicants of Education Branch and sought reinstatement in service.

24. While the matter was so pending before this Tribunal, the Tribunal allowed OA Nos. 143-149/2016 – *Priya Khurana v. Union of India and Ors.* on 11.08.2016 and reiterated that the policy letter dated 26.09.2008 permitting prospective limited consideration for permanent commission, was illegal (Annexure A-10). However, in the case of the applicants along with Cdr. Reena Magdalene and others a coordinate bench of this Tribunal on 08.11.2017 took note of various aspects of the matter but on the ground of delay and the fact that the issue of grant of permanent commission is pending before the Hon'ble Supreme Court, dismissed the OA.

25. Similar is the situation in OA No.2148/2021 (Lt. Cdr. Pushpa Pandey), except that her earlier OA i.e. OA No.147/2016 was dismissed as withdrawn which was tagged along with the case of *Priya Khurana* (supra) which was ultimately allowed by this Tribunal and it is the Order based upon which the benefits are claimed now in this OA.

26. The Hon'ble Supreme Court finally decided the issue on 17.03.2020 when the Special Leave Petition filed by the Union of

India challenging the Order passed by the Hon'ble Delhi High Court in the case of Annie Nagaraja and this Tribunal in the case of Priya Khurana was decided in Criminal Appeal No.2182-87/2020. The Hon'ble Supreme Court upheld the Orders passed by the Delhi High Court and the Tribunal and it was held in para 96(x) and (xi) (quoted hereinabove) that prospective application of the policy dated 26.09.2008 was not proper and was unsustainable in law.

27. The issue before us now is as to whether the applicants are entitled to the benefits claimed by virtue of the mandate of Hon'ble Supreme Court in the case of Annie Nagaraja (supra) and the directions contained in para 96 (x) and (xi). A perusal of the mandate of the judgment of the Hon'ble Supreme Court and the findings in para 96 (x) clearly show that all SSC women officers who were denied consideration for grant of Permanent Commission on the ground that they were inducted prior to issuance of the letter dated 26.09.2008 and who were not in service at that point of time were deemed to be, as a one-time measure, those who have completed substantive pensionable service and, therefore, they will be entitled to pension from the date of their release without arrears of salary.

28. That apart, under para (xi), it is indicated that all SSC officers who were before the High Court or the Armed Forces

Tribunal and who were not granted PC shall be deemed to have completed substantive qualifying service for grant of pension.

29. In our considered view, the applicants' case fall both under clause (x) and (xi) of para 96 of Annie Nagaraja's judgment. Even though the applicants at that relevant point of time had agitated their grievance before this Tribunal, but the same were rejected by this Tribunal, merely because the applicants did not agitate the matter any further, the benefit to the applicants by virtue of the Hon'ble Supreme Court's order cannot be denied. The applicants intention to challenge action of the respondents in not granting them permanent commission in spite of the policy dated 26.09.2008 was apparent from their act of challenging the action before this Tribunal in OA No.783/2015 and OA No.147/2016 respectively and even if this aspect of the matter is not taken note of, the applicants would fall in clause (x) as the applicants were SSC women officers who were inducted prior to issuance of the policy letter dated 26.09.2008 but were not in service when the Hon'ble Supreme Court decided the matter on 17.03.2020 and even when the policy letter dated 26.09.2008 came into force they sought permanent commission but on account of the prospective effect of the policy, the same was denied to them. That being so, in our considered view, the applicants' case is covered by both para

96 clause (x) and (xi) as there is no cogent reason for denying the said benefit to the applicants.

30. That apart, we find that along with the applicant in the lead case in OA No.2043/2021 one **Cdr. Reena Magdalene** was an applicant before this Tribunal in OA No.783/2015. Her name appears at Sl. No.4 in the cause title of the aforesaid proceedings and the applicant's name appears at Sl. No.5. In spite of the fact that the claim of both the applicant herein and Cdr. Reena Magdalene alongwith three others, namely, Cdr. Aparna Srivastava, Cdr Monika Pande and Cdr. Minakshi Haldhar was rejected by this Tribunal on 08.11.2017, on the ground of limitation, on 06.04.2021 while implementing the Hon'ble Supreme Court judgment dated 17.04.2020 in the case of **Annie Nagaraja and Babita Punia**, the integrated HQ of the M/o Defence(Navy) issued a communication and directed the Principal Controller of Defence Accounts(Navy), Mumbai to grant pensionary benefits to Cdr Reena Magdalene in the light of the directions issued by the Hon'ble Supreme Court.

31. In our considered view, the case of Cdr. Reena Magdalene and that of the applicants are identical in nature and when similarly situated person like Reena Magdalene is granted the

benefit, there is no reason as to why the same has been denied to the applicants.

32. Apart from the aforesaid reasons which according to us entitles the applicants to claim pensionary benefits in terms of para 96 of the judgment rendered in the case of *Annie Nagaraja*, somewhat similar issue was considered by this Tribunal in TA No.1/2022 (*Cdr. Jaya Kapoor Vs. Union of India*). Even though that was a case where the writ petition pending from the year 2010 before the Delhi High Court was transferred and decided by this Tribunal but while dealing with the issue this Tribunal took note of the policy letter dated 26.09.2008 and the judgment of the Hon'ble Supreme Court in the case of *Annie Nagaraja* and in para 14 after a detailed discussion recorded the following findings:-

“14.... From the aforesaid, it is clear that the right to be considered for grant of permanent commission arose by virtue of the policy dated 25.02.1999 and the policy of 26.09.2008 was issued by the respondents oblivious of the policy document and this, according to the Hon'ble Supreme Court, had the effect of denying benefit to the SSC officers, who are in saddle, besides restricting the cadre branches in which the SSC officers could be granted permanent commission. From the aforesaid, it is crystal clear that had the Naval authorities considered the issue of granting permanent commission in accordance with the policy of 25.02.1999, the case of the applicants herein also could have been considered. Finally, in Para 89 (v), again the Hon'ble Supreme Court made observations with regard to conduct of the Naval authorities in not granting permanent commission to SSC officers in terms of the policy dated 25.02.1999. It is, therefore, clear that the applicants, who were entitled to be considered for grant of permanent commission in accordance with the policy

of 25.02.1999 were in service for a longer period of time even after the policy was formulated in the year 1999, but as the policy was not brought to their notice nor was it implemented nor was any action taken to grant of permanent commission to the applicants in accordance with the policy of 1999.”

33. Thereafter, in para 15, 16 and 17 the Coordinate bench had discussed the issue in the following manner:-

“15. Further, the Hon'ble Supreme Court, after taking into consideration the aforesaid situation, as detailed in Para 89, found merit in the grievance of the SSC officers and held that the present situation has arisen as a consequence of the action of the Naval authorities in their failure to abide by the policy letter dated 25.02.1999 and other factors as are detailed in Para 90(i), 90(ii) and 90(iii). After having held so, the Hon'ble Supreme Court, in Para 92, held as under:

“92. The second to sixth respondents in Annie Nagaraja's case had retired upon the completion of fourteen years of service prior to the issuance of the policy letter dated 26 September 2008. Of these officers, three officers are from the Logistic cadre, one officer is from the Education branch and one officer is from the ATC cadre. The Delhi High Court had issued directions for the reinstatement of the second to sixth respondents. These officers are: Commander R Prasanna, Commander Puja Chhabra, Commander Saroj Kumar, Commander Sumita Balooni and Commander E Prasanna.”

From the aforesaid, it is clear that it is on account of the failure of the Naval authorities and the Union of India that the petitioners in the case of Annie Nagaraj (supra) and the applicants in this case were deprived of their entitled to be considered for grant of permanent commission and the Hon'ble Supreme Court categorically held that failure of the authorities to consider the SSC officers for grant of permanent commission in terms of the policy of 25.02.1999 resulted in their losing the opportunity of being considered for grant of permanent commission,

including the right for promotion and pensionable service and this, according to the Hon'ble Supreme Court, arose only because of the failure of the authorities to implement the statutory notification issued under Section 9(2) viz. the policy statement of 25.02.1999. The Hon'ble Supreme Court thereafter held that the SSC officers cannot be left in lurch and injustice meted out to them for the lost years of service and deprivation of retiral entitlements must be rectified and it is after evaluating all these aspects that the directions in Para 96 had been issued and as only Direction Nos. 96(x), (xi) and (xii) are relevant for the present case, we are reproducing the same hereunder:

“(x) All SSC women officers who were denied consideration for the grant of PCs on the ground that they were inducted prior to the issuance of the letter dated 26 September 2008 and who are not presently in service shall be deemed, as a one-time measure, to have completed substantive pensionable service. Their pensionary benefits shall be computed and released on this basis. No arrears of salary shall be payable for the period after release from service.

(xi) As a one-time measure, all SSC women officers who were before the High Court and the AFT who are not granted PCs shall be deemed to have completed substantive qualifying service for the grant of pension and shall be entitled to all consequential benefits; and

(xii) Respondents two to six in the Civil Appeals arising out of Special Leave Petition (C) Nos. 30791-96 of 2015, namely Commander R Prasanna, Commander Puja Chhabra, Commander Saroj Kumar, Commander Sumita Balooni and Commander E Prasanna shall be entitled, in addition to the grant of pensionary benefits, as a one-time measure, to compensation quantified at 25 lakhs each.”

Taking note of the aforesaid, we find that the Hon'ble Supreme Court has categorically held that there has been dereliction on the part of the respondents, both the Union of India and the Naval authorities, in the matter of granting permanent commission to SSC officers in terms of the policy dated 25.02.1999, which was a statutory duty, non-compliance of which is

established and the consequent result of this was depriving the legal right available to the SSC officers.

16. Accordingly, if, in the aforesaid backdrop, we analyze the reliefs granted to the SSC Women officers in Para 96 (x) and (xi), it is clear that all SSC officers, who were denied consideration for grant of permanent commission and were inducted prior to issuance of the letter dated 28.02.1999 and who were not presently in service shall be, as a one-time measure, deemed to have completed the substantial pensionary service, their pensionary benefits shall be computed and released on this basis. However, no arrears of salary shall be payable to them for the period after release from service. That apart, in Para 11, as a one-time measure, all the SSC officers, who were before the High Court and the Tribunal and are not granted permanent commission shall also be deemed to have completed substantive qualifying service for grant of pension and shall be entitled to all consequential benefits.

17. From the aforesaid, it is clear that the Hon'ble Supreme Court, in Para 96 (x) has directed for grant of pensionary benefits as a one-time measure and in Para 96 (xi), the SSC officers who had initiated judicial proceedings before the High Court and the AFT were also brought within the ambit of the directions of the Hon'ble Supreme Court. Admittedly, when the decision was rendered by the Hon'ble Supreme Court on 17.03.2020, the writ petition filed by the applicants herein stood transferred to this Tribunal and was pending and, therefore, their case can safely be brought within the ambit of Para 96 (xi). However, the consequential question specifically with regard to these applicants would be that merely because they have not claimed permanent commission, can it be denied to them despite the fact that the findings recorded by the Hon'ble Supreme Court clearly Union of India and the Naval contemplated that the respondents authorities miserably failed to discharge their duties in implementing the policy dated 25.02.1999. In our considered view, as already discussed herein above, the applicants, under the bona fide belief that there is no policy for grant of permanent commission to them and in ignorance of the policy dated 25.02.1999 approached the High Court way back in the year 2010

and believing that they are entitled only to claim pension and not permanent commission claimed pensionary benefits. However, the fact remains that a combined reading of the judgment rendered by the AFT, the Delhi High Court and the Hon'ble Supreme Court in the case of Cdr Priya Khurana and Annie Nagaraj (*supra*) clearly establishes that the applicants - SSC Women Officers like the applicants were entitled to claim permanent commission, but the respondents somehow or other did not consider their claim in spite of the statutory right existed in their favour."

34. In our considered view, in the case of the applicants also the principles culled out in the case of *Jaya Kapoor* (*supra*) will squarely apply. In the present case also the situation arose as a consequence of action of the Naval Authorities by their failure to abide by the original policy letter dated 25.02.1999 and as discussed in the case of *Jaya Kapoor* (*Supra*), even though in the case of *Jaya Kapoor* the Writ Petition filed by the applicants therein in the High Court was pending when the Supreme Court decided the issue on 17.03.2020 but the intention of the applicant in challenging the action of the respondents by filing OA No.783/2015 and agitating the matter before this Tribunal between 2015-2017 is clear.

35. That apart, while dismissing the OA of the applicant on 08.11.2017 in para 20, the coordinate Bench of this Tribunal had clearly observed that as the matter regarding grant of permanent commission is still pending adjudication before the Hon'ble

Supreme Court, the final outcome of these cases before Hon'ble Supreme Court would have given indication as to whether permanent commission can be granted or not with regard to those officers whose tenure has already come to an end. Observing that when the matters are pending before the Hon'ble Supreme Court and it may take time to decide, the OA was dismissed. At that point of time, when the matter was pending before the Hon'ble Supreme Court, on 08.11.2017 neither the applicant nor the coordinate bench of this Tribunal could have imagined that the Hon'ble Supreme Court in exercise of its power under Article 142 may give pensionary benefit to Permanent Commission Officers like the applicants. Therefore, even though the applicant's case may not specifically come within the purview of clause (xi) of para 96 but considering the fact that the applicant was agitating the matter before this Tribunal and the matter was dismissed by this Tribunal due to the pendency of the issue before the Hon'ble Supreme Court, was one of the consideration while dismissing the matter, we are of the considered view that merely because the provisions of Clause 96(xi) does not apply to the applicant, we cannot dismiss the OA. That apart, we find from the material available on record that many officers similarly situated like the applicants have been given the pensionary benefit on 06.04.2021 and by other orders apart

from Cdr. Reena Magdalene various other officers similarly situated have been granted the benefit.

36. The Hon'ble Supreme Court recently in the case of *Suprita Chandell*(supra) while considering the issue with regard to extending the benefits of judgments rendered by courts to aggrieved persons who have not approached the court considered the issue in para 14 which reads as under:-

“14. It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour others similarly situated ought to be extended the benefit without the need for them to go to court.”

and after a detailed discussion from para 16 onwards in para 23 held as under:-

“23. We hold that the appellant was wrongly excluded from consideration when other similarly situated officers were considered and granted permanent commission. Today, eleven years have elapsed. It will not be fair to subject her to the rigors of the 2013 parameters as she is now nearly 45 years of age. There has been no fault on the part of the applicant.”

37. In our considered view, when similarly situated persons like the applicants have been granted the benefit, the same should also be granted to the present applicants also. Accordingly, we allow these OAs and direct that in terms of the directions issued by the Hon'ble Supreme Court in paras 96(x) and 96(xi) of the judgment rendered in the case of *Annie Nagaraja* (supra), the applicants shall

also be granted all pensionary benefits within a period of three months from the date of receipt of a copy of this order with effect from the date it was granted to persons like Cdr. Reena Magdalene after issuance of the order dated 06.04.2021. With the aforesaid, the OAs stand allowed.

38. There shall be no order as to costs.

39. Pronounced in the open Court on this 26 day of January, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/vb/