

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

87.

OA 4034/2024

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

For Applicant : Mr. Sonu Sharma, Advocate for
Mr. B L Verma, Advocate
For Respondents : Mr. Neeraj, Sr CGSC with
Mr. Sanjay Pal, Advocate
Maj Abhishek Kumar, OIC, Legal Cell

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

ORDER
09.03.2026

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

*“(a) To call for the records, policy/order/FRs/Pension/Commutation Rules based upon which the respondents not revising the Policy on recovery of commuted value of pension; And/or
(b) To direct the respondents to restore the full pension after of 11 Years of recovery of capitalised value of Pension; And/or
(c) To direct the Respondent pay the arrear of excessive deduction/recovery of commuted value of pension made wef 01.08.2020 till realization with the arrear with 12% interest, and/or
(d) to pass any other orders or grant relief, as deemed appropriate in the facts and circumstances of the case on the principle of natural justice.”*

2. No counter affidavit has been filed by the respondents despite opportunities granted vide orders dated 07.10.2024, 20.11.2024 onwards. Placed on record is the pension slip for August, 2024 at Page-10 of the record which gives the date of retirement of the applicant as being 31.12.2003.

3. On behalf of the respondents, in reply to a specific Court query the said document i.e. the pension slip of August, 2024 is not refuted. In view thereof, apparently the period of 15 years from the date 31.10.2003 has long since elapsed.

4. As regards, the prayer made by the applicant seeking restoration of the full pension after 11 years of the recovery of capitalized value of pension and the payment of the arrears of excessive deduction/recovery of commuted value of pension made w.e.f 01.08.2020 till realization in view of the dismissal of CWP 9426/2023(O&M) in *Shila Devi & Ors. vs. State of Punjab and others* and 807 other writ petitions vide judgment dated 27.11.2024 by the Hon'ble High Court of Punjab & Haryana as well as the dismissal of the Special Leave petition(Civil) Diary no(s). 18502/2025 vide order dated 05.05.2025 in *Yashpal Sharma & Ors. vs. State of Punjab & Ors.* by the Hon'ble Supreme Court which petitions were filed to challenge the judgment dated 27.11.2024 in CWP 9426/2023(O&M) in *Shila Devi & Ors. vs.*

State of Punjab and others and 807 other writ petitions, it is held that there can be no restoration of full pension after 11 years of recovery of capitalized value of pension.

5. However, the applicant is entitled to the refund of the commuted value of pension recovered by the respondents w.e.f. 01.01.2019 which is so directed to be refunded in terms of in view of the orders of the Hon'ble Supreme Court in *Common Cause a registered society v. Union of India*(1987) 1 SCC 142 and the verdict of the Hon'ble High Court of Delhi in *Forum of Retired IPS Officers (FORIPSO) v. Union of India and Others* reported in 2019 SCC Online Delhi 6610 as well as the implicit spirit of the order dated 11.09.2024 in WP(C) 12781/2024 in *UOI & Ors. vs. Sub Trilok Chand(Retd)*, with observations in Para-8 thereof which read to the effect:-

“8. We also find that the impugned order does not even refer to the decision of this Court in Forum of Retired IPS Officers (FORIPSO) vs Union of India 2019 SCC OnLine Del 6610, wherein a similar claim for restoration of the commuted portion of pension after 12 years as against the agreed term of 15 years, was rejected.”

The applicant is thus held entitled to the refund of all the amount recovered by the respondents made towards the commuted value of pension w.e.f. 01.01.2019. The said refund of the amount of commuted value of pension recovered by the respondents w.e.f.

01.01.2019 be made to the applicant within a period of 45 days from today, failing which, the applicant would be entitled to interest @8% p.a. till the entire refund is made.

6. The OA 4034/2024 is disposed of accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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