



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Miscellaneous Application No _____ of 2024

(D No 8208 of 2024)

in

Civil Appeal Nos 79-82 of 2012

Wg Cdr A U Tayyaba (retd) & Ors

.... Appellant(s)

Versus

Union of India & Ors

....Respondent(s)

ORDER

- 1 We have heard Ms Pooja Dhar, counsel appearing on behalf of the appellants and Mr R Balasubramanian, senior counsel appearing on behalf of the respondents.
- 2 Delay in filing the Miscellaneous Application is condoned.
- 3 These proceedings arise from a judgment dated 16 November 2022 in **Wg Cdr A U Tayyaba (retd) & Ors v Union of India & Ors**¹. The specific directions which form the subject matter of these proceedings are set out below:

“i. All the women SSCOs governed by the present batch of cases shall be considered for the grant of one-time pensionary benefits on the basis that they have completed the minimum qualifying service required for pension;

¹ Civil Appeal Nos 79-82 of 2012

- ii. The cases of the appellants shall be evaluated on the basis of the HRP dated 19 November 2010 bearing Part No 5; and
- iii. The officers who are found eligible for the grant of pensionary benefits in terms of the present direction shall not be entitled to any arrears of salary, but the arrears of pension shall be payable with effect from the date on which the officers are deemed to have completed twenty years of service;”

4 In terms of the above directions, the Union government has issued Pension Payment Orders² for the officers.

5 During the course of the hearing, it has emerged before the Court that the women officers were released from service at the end of the fourteenth year and the salary for the purpose of computing the pension was taken as the last drawn salary as of the date of the release. No increments have been granted to the applicants between the date of release and the date on which they are deemed to have completed twenty years service in terms of the judgment of this Court dated 16 November 2022.

6 According to the applicants, the authorities have not correctly interpreted the operative directions; once the applicants have been treated to have completed the minimum qualifying service required for pension, the last drawn salary must be taken as on that date and increments have to be computed for pension.

7 The first direction which was issued by this Court was that all the women Short Service Commissioned Officers³ governed by the batch of cases would be considered for the grant of one time pensionary benefits “on the basis that they have completed the minimum qualifying service required for pension”. The

2 PPOs
3 SSCOs

minimum qualifying service for pension is twenty years.

8 Hence:

- (i) The pensionary payments would have to be computed on the basis of the salary on the date of the deemed completion of twenty years; and
- (ii) The women SSCOs would be entitled to notional increments between the date of release and the date on which they have completed the minimum qualifying period for pension, namely, the deemed completion of twenty years.

9 The above directions clearly flow out of the first direction contained in paragraph 34 of the judgment dated 16 February 2022. This was subject to the further stipulation in direction (iii) that they will not be entitled to any arrears of salary, but the arrears of pension would be payable with effect from the date on which they are deemed to have completed twenty years of service.

10 Based on the clarification, the one time pensionary payment due in terms of the judgment dated 16 November 2022 shall be revised and arrears that remain due and payable shall be paid on or before 15 June 2024.

11 Apart from the above direction, further clarifications of this Court are necessary on the following issues:

- (i) The computation of the commuted value of the pensionary payment;
- (ii) Encashment of annual leave; and
- (iii) Grant of ECHS benefits.

- 12 As regards (i) above, the commuted value shall be computed as on the date of the deemed completion of twenty years. The commutation factor shall, therefore, be that which was applicable on the date of the deemed completion of twenty years. The arrears that remain to be paid shall be paid over on or before 15 June 2024.
- 13 As regards the encashment of annual leave, in the event that any of the officers is found to have accumulated the maximum of 300 days in respect of which encashment is allowable, the difference between the encashable quantum of 300 days and the amount which has already been released shall be computed and paid over on or before 15 June 2024.
- 14 The officers governed by this batch and other similarly placed officers would be entitled to ECHS benefits as retired officers.
- 15 Apart from the above directions, Mr R Balasubramanian clarifies that while the PPO indicated that it will be for "life", this would not in any way debar the appellants from the benefit of any revised fixation of pension as and when it becomes due and payable. The PPOs, it has been submitted, shall also be corrected, since they erroneously referred to the applicants as having been 'released'. This shall be corrected in terms of the judgment dated 16 November 2022 before 15 June 2024.
- 16 The above directions resolve the grievances of the appellants-applicants. Accordingly, the Miscellaneous Application shall stand disposed of.

17 Pending application, if any, stands disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
April 15, 2024
-S-

ITEM NO.18

COURT NO.1

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

MISCELLANEOUS APPLICATION Diary No(s). 8208/2024 in
Civil Appeal Nos 79-82 of 2012

WG.CDR. A.U. TAYYABA (RETD). & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 45108/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.
46822/2024 - CONDONATION OF DELAY IN FILING)

Date : 15-04-2024 This application was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s)
(applicant)

Ms. Pooja Dhar, AOR
Ms. S. Ambica, Adv.

Ms. Anshula Vijay Kumar Grover, AOR

For Respondent(s)

Mr. R Bala, Sr. Adv.
Mr. Santosh Kr, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Sachin Sharma, Adv.
Mr. Alankar Gupta, Adv.
Dr. Arun Kumar Yadav Dy Gov, Adv.
Dr. N. Visakamurthy, AOR

Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1 Delay in filing the Miscellaneous Application is condoned.
- 2 The Miscellaneous Application is disposed of in terms of the signed order.

3 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)

DEPUTY REGISTRAR

(Signed reportable order is placed on the file)

(SAROJ KUMARI GAUR)

ASSISTANT REGISTRAR