

[2024] 4 S.C.R. 518 : 2024 INSC 311

Wg Cdr A U Tayyaba (ret'd) & Ors.

v.

Union of India & Ors.

(Miscellaneous Application Diary No. 8208 of 2024)

15 April 2024

**[Dr. Dhananjaya Y Chandrachud, CJI, J B Pardiwala and
Manoj Misra, JJ.]**

Issue for Consideration

Matter pertains to clarification of the order passed by this Court as regards grant of pensionary benefits to the women Short Service Commissioned Officers in Armed Forces.

Headnotes

Armed Forces – Women Short Service Commissioned Officers – Pensionary benefits – Order by this Court granting one time pensionary benefits to the women Short Service Commissioned Officers on basis that they have completed the minimum qualifying service of twenty years, required for pension – Eligible officers in terms thereof, not entitled to any arrears of salary, but the arrears of pension payable with effect from the date on which the officers are deemed to have completed twenty years of service – Pursuant thereto, women officers were released from service at the end of the fourteenth year and for computing the pension, salary was taken as the last drawn salary as of the date of the release, and no increments were 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 aforesaid order – Applicants case that directions not correctly interpreted, 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:

Held: Order by this Court granting one time pensionary benefits to the women Short Service Commissioned Officers clarified – Pensionary payments would have to be computed on the basis of the salary on the date of the deemed completion of twenty years – Women SSCOs entitled to notional increments between

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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 – On basis thereof, the one time pensionary payment due in terms of the previous order revised and arrears due and payable to be paid within the stipulated period – Issues as regards the computation of the commuted value of the pensionary payment, encashment of annual leave, and grant of ECHS benefits also clarified. [Paras 11]

List of Keywords

Pensionary benefits; Women Short Service Commissioned Officers; One time pensionary benefits; Minimum qualifying service required for pension; Arrears of salary; Arrears of pension; Last drawn salary; Date of the release; Increments; Notional increments; Computation of the commuted value of the pensionary payment; Encashment of annual leave; Grant of ECHS benefits.

Case Arising From

CIVILAPPELLATE JURISDICTION: Miscellaneous Application Diary No. 8208 of 2024

In

Civil Appeal Nos. 79-82 of 2022

From the Judgment and Order dated 16.11.2022 of the Supreme Court of India in C.A. No. 79, 80, 81 and 82 of 2012

Appearances for Parties

Ms. Pooja Dhar, Ms. S. Ambica, Ms. Anshula Vijay Kumar Grover, Advs. for the Appellants.

R Bala, Sr. Adv., Santosh Kr, Akshay Amritanshu, Mohd. Akhil, Sachin Sharma, Alankar Gupta, Dr. Arun Kumar Yadav, Dr. N. Visakamurthy, Arvind Kumar Sharma, Advs. for the Respondents.

Judgment / Order of the Supreme Court

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.

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- 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;
 - 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.

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- 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 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

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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.

Headnotes prepared by: Nidhi Jain

Result of the case:
Application disposed of.