

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

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO.210 OF 1999

CONFEDERATION OF EX-SERVICEMEN ASSNS. & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With office report)

Date: 08/03/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)

Mr. K.S. Bhati,Adv.

No.1:

Ms. Aishwarya Bhati,Adv.

For Petitioner Nos.

Mr. Jagdev Singh Manhas,Adv.

2 and 3:

For Respondent(s)

Mr. R.P. Mehrotra,Adv.

Ms. Anil Katiyar,Adv.

Mr. Garvesh Kabra,Adv.

for Mr. Arvind Kumar Sharma, Adv. (N/P)

UPON hearing counsel the Court made the following

O R D E R

Mr. K.S. Bhati, learned counsel appearing for Petitioner No.1, commenced his submissions at 10.30 a.m. and concluded at 2.35 p.m. Thereafter, Mr. J.S. Manhas, learned counsel appearing for Petitioner Nos.2 and 3, made his submissions till 3.00 p.m. Mr. Ravi P. Mehrotra, learned counsel appearing for the Union of India, made his submissions till 3.25 p.m. Mr. K.S. Bhati, learned counsel, thereafter rejoins and concluded at 3.30 p.m.

Hearing concluded.

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We have heard the learned counsel for the parties on the questions of law, particularly on the aspect of the correctness of broad observations made in the decision of a three-Judge Bench in Consumer Education Research Centre & Ors. vs. Union of India & Ors. (1995 (3) S.C.C.43).

During the course of hearing with the assistance of the learned counsel, we have perused the Ex-servicemen Contributory Health Scheme [for short, "E.C.H.S."] dated 30th December, 2002. The contribution to be made by an ex-serviceman so as to avail the benefit of health scheme under the E.C.H.S. is one-time payment ranging from Rs.1800/- to Rs.18,000/- depending upon the amount of pension drawn by him. In this writ petition, we are concerned with the cases of those ex-servicemen who have retired before 1st January, 1996. It is evident that this class of ex-servicemen is a diminishing category. The Government of India, Ministry of Defence, shall

consider, without it being treated as a precedent, the question of granting the waiver of contribution required to be made under the E.C.H.S. by the ex-servicemen of the category with which we are concerned, i.e., those who have retired prior to 1st January, 1996, having regard to the contribution that may have been made by them in the service of the nation and particularly considering that they, while in service, were not making any payment so as to enjoy the benefit of medical care. Alternatively, the Government can also consider making payment on behalf of those who may be interested in availing the benefits under the E.C.H.S. In case of any difficulty in granting this one-time concession, the Government shall file an affidavit within a period of four weeks, placing on record the approximate amount which may have to be waived or contributed by the Government on behalf of such category of ex-servicemen. Further, if the Government decides to waive it or pay it, without it being treated as a precedent, in that event, the amount may not be incorporated in the affidavit. The waiver or payment would be only in respect of those who voluntarily wish to join the E.C.H.S.

Judgement is reserved.

[T.I. Rajput] [N. Annapurna] [Veera Verma]

A.R.-cum-P.S. Court Master Court Master