

@

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.3374 OF 2012

UNION OF INDIA & ANR.

.....APPELLANTS

VERSUS

M.R. PENGHAL

.....RESPONDENT

O R D E R

Delay condoned.

This is an appeal for setting aside order dated 12.08.2010 passed by the Armed Forces Tribunal, Principal Bench, New Delhi in T.A.518 of 2010 whereby the appellants herein were directed to pay disability pension to the respondent.

Learned counsel for the appellants relied upon the judgment of this Court in Union of India and others v. Ajay Wahi (2010) 11 SCC 213 and argued that the impugned order may be set aside. Learned counsel for the respondent referred to the averments contained in the counter affidavit filed before this Court and argued that the ratio of the judgment in Union of India v. Ajay Wahi (supra) is not applicable to the respondent's case because he had sought voluntary retirement from A.P.S.

In our view, the ratio of the judgment in Union of India v. Ajay Wahi (supra) is directly attracted in the present case and the argument of the learned counsel for the respondent cannot be entertained because no such plea was raised in C.W.P. No.7106/2007 filed before the Delhi High Court.

In the result, the appeal is allowed and the impugned order is set aside. The detailed reasons recorded in the judgment in Union of India v. Ajay Wahi (supra) shall be read as part of this order.

.....J.
(G.S. SINGHVI)

.....J.
(H.L. GOKHALE)

NEW DELHI;
FEBRUARY 15, 2013.

ITEM NO.50

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 3374 OF 2012

UNION OF INDIA & ANR.

Appellant (s)

VERSUS

M.R. PENGHAL

Respondent(s)

(With appln(s) for interim stay and condonation of delay in filing appeal and office report)

Date: 15/02/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr.Mohan Parasaran, ASG
Mr.Farrukh Rasheed, Adv.
Mr.Alok Priyadarshi, Adv.

For Respondent(s) Mr.Rahul Gupta, Adv.
Mr. Ashok Kumar Singh, Adv.

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

Delay condoned.

The appeal is allowed in terms of the signed order.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)