

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1399/2013

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

MAJOR RABINDRA SINGH

Respondent(s)

WITH

CIVIL APPEAL NO. 2806/2013

CIVIL APPEAL NO. 10657/2013

O R D E R

We have heard learned counsel for the parties at some length and are of the opinion that the impugned judgment/order does not require any interference, except a clarification that the impugned judgment/order and the present order dismissing the present appeals should not be read as accepting or affirming that the retirement age of officers in different ranks and inducted by different selection processes should be identical or same.

The facts of the present case are rather peculiar since Regimental Commissioned Officers (RCOs) on induction in the Armed Force, perform the same role and duties, shoulder-to-shoulder with regularly/permanently commissioned Officers. Our attention has been drawn to Army Instruction Nos. 18 and 19 dated 01.05.1984, as revised from time to time, and *vide* M of D (Fin/GS) U O no. 1603/G of 1989, stating that all other terms and conditions of service including pay and allowances and leave will not be at variance with

other commissioned Officers. Similarly, the pensionary terms for RCOs will be the same as that for the other commissioned Officers. No doubt retirement age need not be identical, but the issue raised is different, that is, denial of increase in retirement age, and consequently years of service, when other officers were granted benefits. The additional affidavit filed by the appellant(s) dated 06.12.2022, itself acknowledges that several notes were put up but the Army authorities and Ministry of Defence for extending the same benefits to the RCOs, pursuant to implementation of the recommendations of the Ajay Vikram Singh Committee (AVSC) and the Sixth Pay Commission. But these did not find favour primarily for the reason that it had been decided to cease further recruitment of RCOs with effect from 01.01.1998. This cannot justify denial of benefit to the RCOs already in service. In fact, the Army authorities taking cognizance of this issue, and had again taken up their case and subsequently an order for Inter-Arms/Service Transfer dated 24.12.2009 *vide* MOD ID No. 19(71)/2009-D (MS), was issued. This order had benefitted the then serving RCOs, by transferring them to PC(SL)cadre and granting onetime dispensation/waiver to relevant provisions contained in Army Instructions No. 85 of 1974 and Army Order No. 16 of 1995.

These factums along with several others reasons, have been recorded in the impugned judgment/order to uphold the claim of the respondents.

The aforesaid directions as given will apply across the board, and benefit will be given to all RCOs¹ notionally and in

1 Similarly situated RCOs and who were in service at the

terms of the judgment passed by the tribunal. The total amount as per the affidavit filed by the appellant is about Rs. 9 crores. The respondents and the other RCOs will be paid the arrears of pension within a period of six months from today. In case there is delay in payment of arrears within six months, the said retirees would be entitled to interest at the rate of 6 per cent per annum from the date of this order till the date of actual payment.

We again observe that this order has been passed in view of the peculiar facts of the present case, and our reasoning should not be read as a ratio holding fixation of different ages of retirement in the services (Armed Forces, Navy, and Air Force), would violate Article 14 of the Constitution of India.

With the above observations, the civil appeals are dismissed.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(M.M. SUNDRESH)

New Delhi;
March 02, 2023.

relevant time.

ITEM NO.108

COURT NO.7

SECTION XVII

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

Civil Appeal No. 1399/2013

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

MAJOR RABINDRA SINGH

Respondent(s)

(IA No. 3/2013 - INTERVENTION APPLICATION, IA No. 6/2017 - PERMISSION TO FILE ANNEXURES, IA No. 5/2016 - PERMISSION TO FILE ANNEXURES and IA No. 2/2013 - STAY APPLICATION)

WITH

C.A. No. 2806/2013 (XVII)C.A. No. 10657/2013 (XVII)

(FOR STAY APPLICATION ON IA 2/2013)

Date : 02-03-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. Mukesh Kumar Maroria, AOR

Mr. K M Nataraj, A.S.G. (N/P)

Mr. R Bala, Sr. Adv.

Mr. Sharath Nambiar, Adv.

Mr. Nachiketa Joshi, Adv.

Mr. Shlok Chandra, Adv.

Mr. Arvind Kumar Sharma, AOR

For Respondent(s)

Ms. V. Mohana, Sr. Adv.

Mr. S.M. Dalal, Adv.

Mr. Rameshwar Prasad Goyal, AOR

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

The civil appeals are dismissed, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)

(signed order is placed on the file)