

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2023
(@ Diary No. 10244/2017)

EX. NO. 2865013 Y HAVILDAR SAHIB SINGH (RETD.) APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT(S)

O R D E R

Leave to appeal is granted.

Having heard the learned counsel for the parties, we agree with the view expressed in the judgment dated 17.10.2016 by the Armed Forces Tribunal, Regional Bench, Lucknow, Uttar Pradesh in Original Application no. 62/2016, that the appellant - Havildar Sahib Singh (Retd.) is entitled to the benefit of rounding off at the rate of 50% for the computation of the disability pension.

On the question of arrears to be paid, we would follow the judgment of this Court in *Union of India & Ors. vs. Tarsem Singh*¹, with modification in terms of the power exercised under Article 142 of the Constitution.

In the present case, the appellant - Havildar Sahib Singh (Retd.) had made a representation dated 06.06.2013, which was

dismissed/rejected vide order dated 14.06.2013. The appellant - Havildar Sahib Singh (Retd.) had, thereupon, preferred Original Application No. 62/2016, which, as noted above, has been allowed vide judgment dated 17.10.2016. However, the arrears have been restricted to a period of three years from the date of filing of the original application on 11.01.2016. As the appellant - Havildar Sahib Singh (Retd.) had made the representation on 06.06.2013, which was rejected on 14.06.2013 and the proceedings were initiated within the limitation period thereafter, we are of the opinion that the appellant should be paid arrears for a period of three years prior to the date of filing the representation. We have passed this direction exercising our power under Article 142 of the Constitution of India, keeping in mind the age of the appellant - Havildar Sahib Singh (Retd.) and his monetary resources. Accordingly, arrears towards disability pension, by rounding off at the rate of 50%, would be payable to the appellant - Havildar Sahib Singh (Retd.) with effect from 01.06.2010. The arrears will be paid within a period of three months from today, failing which, the respondents would be liable to pay interest at the rate of 8% per annum from the date of this order till the date of actual payment.

The impugned judgment(s)/order(s) dated 17.10.2016 in O.A. No. 62/2016, 08.12.2016 in M.A. No. 2622/2016 with Review Application No. 111/2016 in re: O.A. No. 62/2016, and 20.12.2016 in M.A. No. 2718/2016 with M.A. No. 2719/2016 in re: O.A. No. 62/2016 are partly set aside and modified, and the appeals are allowed in

the aforesaid terms.

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

.....J.
(SANJIV KHANNA)

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

NEW DELHI;
MAY 19, 2023.

ITEM NO.15

COURT NO.3

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 DIARY No. 10244/2017

(Arising out of impugned final judgment and order dated 17.10.2016 in O.A. No. 62/2016, 08.12.2016 in M.A. No. 2622/2016 with Review Application No. 111/2016 in re: O.A. No. 62/2016, and 20.12.2016 in M.A. No. 2718/2016 with M.A. No. 2719/2016 in re: O.A. No. 62/2016)

EX. NO. 2865013 Y HAVILDAR SAHIB SINGH (RETD.) APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT(S)

Date : 19-05-2023 These matters were called on for hearing today.

CORAM :

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

For Appellant(s)

Ms. Purnima Jauhari, Adv.
Dr. Brij Bhushan K. Jauhari, Adv.
Mr. Harsh Mahan, Adv.
Mr. Abhishek Gautam, AOR

For Respondent(s)

Mr. Sanjay Jain, A.S.G. (N/P)
Mr. R. Bala, Sr. Adv.
Mr. Anmol Chandan, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Arvind Kumar Sharma, AOR

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

Leave to appeal is granted.

The appeals are allowed in terms of the signed order.

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

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)