

ITEM NO.20

COURT NO.2

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). 5451/2013

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

KARTAR SINGH

Respondent(s)

WITH

C.A. D 39279/2013

(With appln.(s) for may refer to remarks and appln.(s) for
condonation of delay in filing appeal. and Office Report)C.A. No. 3544/2014
(With Office Report)C.A. No. 3545/2014
(With Office Report)C.A. D 5800/2014
(With appln.(s) for may refer to remarks and Office Report)C.A. D 6200/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for stay and appln.(s) for
condonation of delay in filing appeal. and Office Report)C.A. D 6776/2014
(With appln.(s) for may refer to remarks and appln.(s) for stay and
appln.(s) for condonation of delay in filing appeal. and Office
Report)C.A. D 820/2014
(With appln.(s) for may refer to remarks and Office Report)C.A. D 33675/2013
(With appln.(s) for c/delay in re-filing appeal and appln.(s) for
condonation of delay in filing appeal. and Office Report)C.A. D 5801/2014
Signature Not Verified

(With appln.(s) for may refer to remarks and Office Report)

Digitally signed by

Shashi Sareen

Date: 2015.06.30

08:57:09 IST

Reason:

C.A. D 7788/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for stay and appln.(s) for
condonation of delay in filing appeal. and Office Report)

(With appln.(s) for may refer to remarks and Office Report)

C.A. D 7681/2014

(With appln.(s) for may refer to remarks and Office Report)

C.A. D 8588/2014

(With appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. D 7985/2014

(With appln.(s) for may refer to remarks and Office Report)

C.A. No. 520/2015

(With appln.(s) for condonation of delay in filing appeal. and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for may refer to remarks and appln.(s) for stay and Office Report)

C.A. No. 521/2015

(With appln.(s) for stay and appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for exemption from filing c/c of the impugned judgment and Office Report)

C.A. No. 6789/2014

(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. No. 6788/2014

(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. D 38436/2013

(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. D 19412/2014

(With appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. No. 10483/2014

(With appln.(s) for stay and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for stay and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for condonation of delay in filing appeal. and appln.(s) for exemption from filing c/c of the impugned judgment and Office Report)

C.A. No. 10486/2014

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(With appln.(s) for stay and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for stay and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. No. 10487/2014

(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for stay and appln.(s) for c/delay in re-filing appeal and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. No. 10924/2014

(With appln.(s) for stay and appln.(s) for leave to appeal u/s

31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. No. 10925/2014
(With appln.(s) for stay and appln.(s) for leave to appeal u/s
31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. No. 10926/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for stay and Office Report)

C.A. No. 10927/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for stay and Office Report)

C.A. No. 611/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for exemption from filing c/c of
the impugned judgment and appln.(s) for stay with a prayer for an
ex-parte ad interim order and Office Report)

C.A. No. 612/2015
(With appln.(s) for exemption from filing c/c of the impugned
judgment and appln.(s) for leave to appeal u/s 31(1) of the armed
forces tribunal act, 2007 and appln.(s) for stay and appln.(s) for
condonation of delay in filing appeal. and Office Report)

C.A. No. 613/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for interim stay and appln.(s) for
condonation of delay in filing appeal. and appln.(s) for exemption
from filing c/c of the impugned judgment and Office Report)

C.A. No. 614/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and appln.(s) for stay and Office Report)

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C.A. No. 615/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and Office Report)

C.A. No. 616/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and appln.(s) for stay and Office Report)

C.A. No. 617/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and appln.(s) for stay and Office Report)

C.A. No. 709/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and appln.(s) for stay and Office Report)

C.A. No. 1428/2015
(With appln.(s) for stay and appln.(s) for condonation of delay in
filing appeal. and appln.(s) for exemption from filing c/c of the
impugned order and appln.(s) for exemption from filing c/c of the
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impugned order and appln.(s) for stay and appln.(s) for stay and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. No. 1851/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for c/delay in re-filing appeal and appln.(s) for leave
to appeal u/s 31(1) of the armed forces tribunal act, 2007 and
appln.(s) for stay and Office Report)

C.A. D 6390/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. D 7116/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. D 6394/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. No. 4132/2013
(With Office Report)

C.A. D 37198/2013
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
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tribunal act, 2007 and appln.(s) for c/delay in re-filing appeal
and appln.(s) for condonation of delay in filing appeal. and Office
Report)

C.A. No. 1856/2014
(With appln.(s) for impleadment as party respondent and appln.(s)
for impleadment and Office Report)

C.A. No. 1959/2014
(With Office Report)

C.A. No. 1960/2014
(With Office Report)

C.A. No. 1961/2014
(With Office Report)

C.A. No. 1962/2014
(With Office Report)

C.A. No. 3820/2014
(With Office Report)

C.A. No. 4233/2014
(With Office Report)

C.A. No. 5999/2014
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for stay and appln.(s) for leave to appeal u/s 31(1) of
the armed forces tribunal act, 2007 and Office Report)

C.A. D 7988/2014
(With Office Report)

C.A. D 8592/2014
(With Office Report)

C.A. D 10923/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and appln.(s) for condonation of delay in filing
appeal. and Office Report)

C.A. D 11123/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces

tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 11124/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 12397/2014

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(With Office Report)

C.A. D 13033/2014
(With appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. D 13749/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 13754/2014
(With Office Report)

C.A. D 14692/2014
(With Office Report)

C.A. D 15479/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 17028/2014
(With Office Report)

C.A. D 17440/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 17916/2014
(With Office Report)

C.A. D 17926/2014
(With Office Report)

C.A. D 19419/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 19867/2014
(With Office Report)

C.A. D 19884/2014
(With Office Report)

C.A. D 24886/2014
(With Office Report)

C.A. No. 1958/2014
(With Office Report)

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C.A. D 11461/2014
(With Office Report)

C.A. D 28878/2013
(With Office Report)

C.A. No. 6623/2014
(With Office Report)

C.A. No. 10244/2014
(With Office Report)

C.A. No. 266/2015
(With Office Report)

C.A. D 25121/2013
(With Office Report)

C.A. No. 3629/2015
(With appln.(s) for stay and appln.(s) for c/delay in re-filing
appeal and appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. No. 3630/2015
(With appln.(s) for stay and appln.(s) for condonation of delay in
filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the
armed forces tribunal act, 2007 and Office Report)

C.A. No. 3631/2015
(With appln.(s) for stay and appln.(s) for condonation of delay in
filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the
armed forces tribunal act, 2007 and Office Report)

C.A. No. 3632/2015
(With appln.(s) for stay and appln.(s) for condonation of delay in
filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the
armed forces tribunal act, 2007 and Office Report)

C.A. No. 529/2015
(With appln.(s) for exemption from filing c/c of the impugned
judgment and appln.(s) for stay and Office Report)

C.A. No. 3651/2015
(With appln.(s) for stay and appln.(s) for condonation of delay in
filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the
armed forces tribunal act, 2007 and Office Report)

C.A. D 35440/2014
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

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C.A. No. 1660/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. D 6709/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. D 9107/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces
tribunal act, 2007 and Office Report)

C.A. D 11790/2015
(With appln.(s) for condonation of delay in filing appeal. and
appln.(s) for leave to appeal u/s 31(1) of the armed forces

tribunal act, 2007 and Office Report)

C.A. No. 4192/2014
(With appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for stay and appln.(s) for condonation of delay in filing appeal. and appln.(s) for may refer to remarks and Office Report)

C.A. No. 4193/2014
(With appln.(s) for may refer to remarks and Office Report)

C.A. D 36569/2013
(With appln.(s) for may refer to remarks and appln.(s) for condonation of delay in filing appeal. and appln.(s) for ex-parte stay and Office Report)

C.A. D 34645/2013
(With appln.(s) for may refer to remarks and appln.(s) for c/delay and Office Report)

C.A. D 41430/2013
(With appln.(s) for may refer to remarks and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. D 35144/2013
(With appln.(s) for may refer to remarks and appln.(s) for condonation of delay in filing appeal. and Office Report)

C.A. No. 5642/2014
(With appln.(s) for c/delay in re-filing appeal and appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and appln.(s) for may refer to remarks and appln.(s) for stay and Office Report)

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C.A. D 6720/2015
(With appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

C.A. D 975/2015
(With appln.(s) for condonation of delay in filing appeal. and appln.(s) for condonation of delay in filing appeal. and appln.(s) for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and Office Report)

Date : 06/05/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. R. Balasubramanian,Adv.
 Mr. Sunil Mathews,Adv.
 Mr. Gaurav sharma,Adv.
 Mr. R.S. Nagar,Adv.
 Mr. Sanjiv Das,Adv.
 Mr. Shailender Saini,Adv.
 Mr. Pranav Kumar,Adv.
 Mr. B. V. Balaram Das,Adv.

For Respondent(s) Mr. Rakesh Dahiya,Adv.
 Brig. M.L. Khatter,Adv.

Mr. Dhruv Pal,Adv.

Mr. Shree Pal Singh, Adv.

Mr. K.K. Rohatgi, Adv.

Mr. Praveen Jain, Adv.

Mr. Siddharth Jain, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

Ms. Manju Jetley, Adv.

Mr. Avijit Bhattacharjee, Adv.

Mr. Ambreesh Kumar Aggarwal, Adv.

Mr. Praveen Jain, Adv.

Mr. Yash Pal Dhingra, Adv.

Mr. Varinder Kumar Sharma, Adv.

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

Civil Appeal Nos. 4132 of 2012, 1856 of 2014, 3820 of 2014, 4233 of 2014, 5999 of 2014, 6623 of 2014, 266 of 2015, 10244 of 2014, C.A. No. D975 of 2015.

De-tagged. Post after summer vacation.

Civil Appeal No. 529 of 2015:

De-tagged and post before an appropriate Bench.

Rest of the matters:

The appeals are dismissed in terms of the signed order.

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 5451 OF 2013

UNION OF INDIA AND ORS.

... Appellant(s)

Versus

KARTAR SINGH

... Respondent(s)

WITH

C.A. D 39279/2013

C.A. No. 3544/2014
C.A. No. 3545/2014
C.A. D 5800/2014
C.A. D 6200/2014
C.A. D 6776/2014
C.A. D 820/2014
C.A. D 33675/2013
C.A. D 5801/2014
C.A. D 7788/2014
C.A. D 41421/2013
C.A. D 7681/2014
C.A. D 8588/2014

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C.A. D 7985/2014
C.A. No. 520/2015
C.A. No. 521/2015
C.A. No. 6789/2014
C.A. No. 6788/2014
C.A. D 38436/2013
C.A. D 19412/2014
C.A. No. 10483/2014
C.A. No. 10486/2014
C.A. No. 10487/2014
C.A. No. 10924/2014
C.A. No. 10925/2014
C.A. No. 10926/2014
C.A. No. 10927/2014
C.A. No. 611/2015
C.A. No. 612/2015
C.A. No. 613/2015
C.A. No. 614/2015
C.A. No. 615/2015
C.A. No. 616/2015
C.A. No. 617/2015
C.A. No. 709/2015

C.A. No. 1428/2015
C.A. No. 1851/2015
C.A. D 6390/2015

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C.A. D 7116/2015
C.A. D 6394/2015
C.A. D 37198/2013
C.A. No. 1959/2014
C.A. No. 1960/2014
C.A. No. 1961/2014
C.A. No. 1962/2014
C.A. D 7988/2014
C.A. D 8592/2014
C.A. D 10923/2014
C.A. D 11123/2014
C.A. D 11124/2014
C.A. D 12397/2014
C.A. D 13033/2014
C.A. D 13749/2014
C.A. D 13754/2014
C.A. D 14692/2014
C.A. D 15479/2014
C.A. D 17028/2014
C.A. D 17440/2014
C.A. D 17916/2014
C.A. D 17926/2014
C.A. D 19419/2014
C.A. D 19867/2014
C.A. D 19884/2014

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C.A. D 24886/2014
C.A. No. 1958/2014
C.A. D 11461/2014
C.A. D 28878/2013
C.A. D 25121/2013

C.A. No. 3629/2015
C.A. No. 3630/2015
C.A. No. 3631/2015
C.A. No. 3632/2015
C.A. No. 3651/2015
C.A. D 35440/2014
C.A. No. 1660/2015
C.A. D 6709/2015
C.A. D 9107/2015
C.A. D 11790/2015
C.A. No. 4192/2014
C.A. No. 4193/2014
C.A. D 36569/2013
C.A. D 34645/2013
C.A. D 41430/2013
C.A. D 35144/2013
C.A. No. 5642/2014
C.A. D 6720/2015

O R D E R

The respondents are all Honorary Lieutenants and
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Honorary Captains who have retired from the Indian Army
or Honorary Flying Officers and Honorary Flight
Lieutenants who retired from the Indian Air Force and
Honorary Sub Lieutenants and Honorary Lieutenants who
served the Indian Navy. Honorary rank it is common
ground is awarded to persons serving in the Army, Navy
and the Air Force for commendable service rendered by
them. The award of the rank is usually announced on the
republic and independence days every year. It is not in
dispute that the respondents have all served and retired
from their respective services before 01.01.2006. It is
also not in dispute that all of them were given honorary

ranks for distinguished services.

The 6th Central Pay Commission made its recommendations according to which those retiring on or after 01.01.2006 were held entitled to pension of Rs. 15,465/- in the case of Honorary Lieutenants and Rs. 16,145/- in the case of Honorary Captains in the Indian Army. Similar amounts towards pension were also held payable to those holding equivalent honorary ranks in the other two services namely Navy and Air Force. For the pre 01.01.2006 retirees like the respondents herein, the Government pursuant to the recommendations made by the 6th Pay Commission determined the pension payable to such honorary rank holders at 50% of Rs. 10,500/- for an Honorary Lieutenant and Rs. 10,850/- for an Honorary Captain retiring from the Indian Army and others retiring from the other services on equivalent ranks. An order dated 11.11.2008 directing fixation of pension was accordingly issued by the Government effective from 01.01.2006.

The respondents and a large number of other pre 01.01.2006 retirees appear to have felt aggrieved of the said determination and direction. Representations appear to have been made to the Government for redressal of the grievances of these ex-servicemen, which were reffered by the Government to a Committee headed by the Cabinet Secretary for examination, and for a possible redressal. The Committee so constituted appears to have examined the representations and made a report which was accepted by the Central Government culminating in the issue of Circular dated 08.03.2010 whereby the Government directed that pension payable to Honorary ranks like those held by the respondents shall be determined and paid @ 50% of the notional pay in the notional maximum in the post 01.01.2006 revised pay

structure corresponding to the maximum of the pre
6th Central Pay commission pay scales as per fitment
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table for each rank. This order was to be effective
from 01.07.2009. It is not in dispute that the
respondents were placed in the pay band of 15400-37500
in terms of the recommendations of the 6 th Pay
Commission.

The implementation of the above direction appears
to have again left the respondents with the grievance
that they were not being given a fair treatment equal to
those who retired after 01.01.2006. Representations
were again made to the Government for redressal
whereupon the Government appointed yet another Committee
of Secretaries who submitted its report and
recommendations. The Government accepted the
recommendations by the said Committee also and directed
that pre 01.01.2006 retirees shall be brought at par
with post 01.01.2006 retirees but only w.e.f.
24.09.2012. It is common ground that post 24.09.2012

the respondents have no grievance to make as the same
stands redressed in terms of the order issued by the
Government w.e.f. 24.09.2012. Even so the respondents

appear to have filed several petitions before the Armed
Forces Tribunal seeking similar treatment as was given
to Viceroy Commissioned Officers who retired prior to

01.06.1953 but were given the same pension as was
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sanctioned to those holding honorary ranks but retiring
after 01.01.2006. Their grievance primarily was that

the respondents were in no way different from Viceroy
Commissioned officers who had been given the benefit of
higher pension in tune with post 01.01.2006 retirees
while the respondents had been singled out for a hostile

treatment and denial of a similar benefit without any rational basis for such discrimination. The appellant Union of India unsuccessfully contested these petitions primarily on the ground that grant of pensionary benefits similar to those retiring after 01.01.2006 was a mistake in the case of Viceroy Commissioned officers who had retired prior to 01.01.1953. It was submitted that table 133 attached to letter dated 08.03.2010 stipulating that Viceroy Commissioned officers will also get pension at par with those who retired after 01.01.2006 was a mistake which was corrected by the Government. It was contended that since table 133 upon which the respondents placed reliance in support of their claim stood removed from Government order dated 08.03.2010, there was no real basis for them to claim any equivalence with the Viceroy Commissioned officers. The present petitions seeking leave to appeal against the judgments and orders passed by the Tribunal have been filed by the Union of India to assail the correctness of the said judgments and orders.

We have heard Mr.R.Balasubramanian, learned counsel for the appellants and learned counsel for the respondents who have taken us through the orders passed by the Tribunal as also the orders issued by the Government from time to time. The short question that in our opinion falls for determination is whether the denial of pension to the respondents at par with those retiring after 01.01.2006 for the period between 01.07.2009 and 24.09.2012 is justified, on any legal or factual hypothesis. The question whether the respondents are entitled to claim pension at par with post 01.01.2006 retirees stands answered by the Government in terms of its order dated 17.01.2011 whereby the Government had granted them equivalence

w.e.f. 24.09.2012.

Mr. R.Balasubramanian however argued

that the grant ought to be construed as a measure of liberalisation of the pension scheme applicable to pre

01.01.2006 retirees.

On behalf of the respondents it

was on the other hand submitted that the Government had committed a mistake in understanding the recommendations of the pay commission and in working out the benefits admissible to pre 01.01.2006 retirees.

It was urged

that the mistake committed by the Government was pointed out by the respondents in the form of a

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representation which was examined by a Committee headed by the Cabinet Secretary who noticed the anomaly in the situation and made a report culminating in the issue of a Circular dated 08.03.2010 by the Government directing payment of pension to pre 01.01.2006 retirees @ 50% of the notional maximum in the post 01.01.2006 revised pay structure corresponding to the maximum fitment table against each rank. This direction it was argued was also not accurately complied with while granting pension to the respondents which necessitated further representations that eventually led to the grant of equivalence to the respondents in terms of Government order dated 17.01.2011.

The fact however remains that the basic error which the Government had committed stood corrected by its order dated 08.03.2010 inasmuch as it had directed grant of pension @ 50% of the notional maximum in the post

01.01.2006 revised pay structure w.e.f. 01.07.2009 It

was submitted that the Tribunal had in Squadron Leader V.K. Jain Vs. Union of India (CA 270 of 2010 decided on 14.09.2010) held that the minimum pay band has to be taken as minimum determined for the officers of the same rank on 01.01.2006. A similar view was taken by the

Tribunal in Sqdn. Leader 55 Matharu and Ors.

Vs. Union

of India (CA No. 522 of 2010 decided on 25.11.2010). The
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said two orders it is common ground were assailed before
this Court but affirmed while dismissing the application
for grant of leave to appeal.

It was urged that on a
true and correct understanding and interpretation of
Order dated 08.03.2010, the benefit of the higher
pension admissible to post 01.01.2006 retirees by
reference to the notional maximum in the post 01.01.2006
revised pay structure stood granted in favour of the
respondents in terms of its order dated 08.03.2010 which
had to be simply implemented in the light of the
interpretation which this Court has placed while
affirming the orders passed by the Tribunal.

We have given our anxious consideration to the
submissions made at the Bar. The Government had while
accepting the recommendations made by the Cabinet
Secretary's Committee in terms of its order dated
08.03.2010 directed payment of pension to pre and post
01.01.2006 retirees on the following principle:

Pension of all pre-01.01.2006 PBOR
pensioners may be reckoned with reference to
a notional maximum in the post 01.01.2006
revised pay structure corresponding to the
maximum of pre-Sixth pay commission pay
scales as per fitment table of each rank.

A careful reading of the above would show that
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pension of pre 01.01.2006 PBOR was also to be in terms
of the said order to be reckoned with reference to a
notional maximum in the post 01.01.2006 revised pay
structure corresponding to the maximum of the pre 6th pay
commission pay scales as per fitment table of each rank.

This direction was significantly different from the
order earlier issued by the Government whereby for pre
01.01.2006 retirees pension had to be determined @ 50%
of Rs. 10500/- and Rs. 10850/- in the case of Honorary

Lieutenants and Honorary Captain respectively.
Government order dated 08.03.2010 shifted the entire
basis for determination and grant of pension to a
notional maximum in the post 01.01.2006 revised pay
structure corresponding to the maximum of pay
equivalence. The fitment table was also enclosed to the
said order in respect of each rank. This implies that
the principle of 50% of the notional pay had to be
understood by reference to the notional maximum in the
post 01.01.2006 revised pay structure as per the said
fitment table which was significantly higher than the
amount that was payable to the pre 01.01.2006 retirees
in terms of the earlier order issued by the Government.
This position has been upon a further consideration
affirmed by the Second Committee set up by the
Government who accepted the principle of equivalence

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between pre and post 01.01.2006 retirees for purposes of
pension and recommended grant of pension at par with
post 01.01.2006 retirees no matter w.e.f. 24.09.2012.

The fact however remains that since the principle on
which pension had to be calculated and awarded remains
the same as was stipulated in Circular dated 08.03.2010
effective from 01.07.2009, there is no reason why the
benefit of that principle should not be available to the
respondents w.e.f. 01.07.2009. The Tribunal in that
view did not in our opinion commit any illegality much
less any perversity in directing the grant of pension in
favour of the respondents on the said principle not only
from 24.09.2012 but retrospectively w.e.f. 01.07.2009.

There is for the above reasons no room for us to
interfere. These applications for grant of leave to

appeal fail and are hereby dismissed. We however direct
that the arrears payable to the respondents shall be
released in their favour within a period of four months

failing which the amount payable shall start earning
interest @ 10% p.a. w.e.f. the date of this order.

.....J.
(T.S.THAKUR)

.....J.
(R.K.AGRawal)

.....J.
(R.BANUMATHI)

New Delhi,
May 06, 2015.
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