

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  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5451/2013

UNION OF INDIA &amp; 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

3

(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)

4

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  
5

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

6

(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)

7

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)

8

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)

9

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.

10

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)

11

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

12

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

13

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

14

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  
15

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

16

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 referred 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

17

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 6th 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

18

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

19

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

20

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

21

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 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. PBOR

A careful reading of the above would show that

22

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

23

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.  
24