

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

M.A.No.1224/2017 in Civil Appeal No(s).2147/2011

T S DAS & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

Veteran Sailors Welfare Association

Applicant (s)

(FOR ADMISSION and and IA No.111570/2017-APPROPRIATE
ORDERS/DIRECTIONS)

WITH

[ITEM NO.1.1 - CONMT.PET.(C) No.1860/2017 in
C.A. No. 2147/2011 (XVII)];[ITEM NO.1.2 - CONMT.PET.(C) No.4/2018 in
SLP(C) No.19790/2010 (XVII)];[ITEM NO.1.3 - M.A.NO.1067/2018 in
C.A. No.2147/2011 (XVII)
(For admission and IA No.30242/2018 and
IA No.30244/2018-CLARIFICATION/DIRECTION)];[ITEM NO.1.4 - CONMT.PET.(C) No.924/2018 in
C.A. No.2147/2011 (XVII)
(FOR ADMISSION)].

Date : 27-09-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s)/ Mr. Basava Prabhu Patil, Sr. Adv.
Applicant (s) Mr. Atul Kumar, Adv.Ms. Deepali, Adv.
Mr. Tarun Gupta, Adv. [AOR]Mr. Prashant Bhushan, Adv. [AOR]
Mr. T. Sudhakar, Adv.Mr. Anukul Raj, Adv.
Ms. Nikita Raj, Adv.
Ms. Deepti Gupte, Adv.
Mr. Abhinav Shrivastava, Adv. [AOR]

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Mr. Jose Abraham, Adv. [AOR]
Mr. M.P. Srivignesh, Adv.
Mr. B. Mathews, Adv.
Mr. Sarah Shaji, Adv.
Ms. Neema Noor Mohamed, Adv.

Mr. T. Sudhakar, Adv.
Mr. Pranav Sachdeva, Adv. [AOR]

For Respondent(s) Mr. R. Balasubramanian, Adv.
Mr. P.K. Dey, Adv.
Mr. Prabhas Bajaj, Adv.
Ms. Kanika Saran, Adv.
Ms. Ishika Chawla, Adv.
for
Mr. Mukesh Kumar Maroria, Adv. [AOR]/
Mr. Arvind Kumar Sharma, Adv. [AOR]

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

Permission to file application for direction is granted.
Miscellaneous applications as well as the contempt
petitions are disposed of in terms of the signed order.
Other pending applications, if any, stand disposed of.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.A.NO.1224 OF 2017

IN

CIVIL APPEAL NO.2147 OF 2011

T.S. Das & Ors. ... Appellants

Versus

Union of India & Anr. ... Respondents

Veteran Sailors Welfare Association ... Applicant

W I T H

CONTEMPT PETITION(C)NO.1860 OF 2017

IN

CIVIL APPEAL NO.2147 OF 2011;

CONTEMPT PETITION(C)NO.4 OF 2018

IN

SPECIAL LEAVE PETITION(C)NO.19790 OF 2010;

M.A.NO.1067 OF 2018

IN

CIVIL APPEAL NO.2147 OF 2011;

AND

CONTEMPT PETITION(C)NO.924 OF 2018

IN

CIVIL APPEAL NO.2147 OF 2011

O R D E R

Permission to file application for direction is granted.

Heard Mr. Basava Prabhu Patil, learned senior counsel appearing for the applicant-Association in M.A.No.1224 of 2017; Mr. Prashant Bhushan, learned counsel appearing for the petitioner in Contempt Petition(C)No.1860 of 2017 and Mr. R. Balasubramanian, learned counsel appearing for the respondent-Union of India.

When the matter was called on 20.09.2018, the following order was passed :

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"Mr. P.K. Dey and Mr. R. Balasubramanian, learned counsel appearing for the Union of India pray for some time to obtain instructions. When it is said 'obtain instructions', it should be construed that there has to be some instructions to do the needful in the matter.

List the matter on 27th September, 2018."

The issue raised before Armed Forces Tribunal (for brevity, 'the tribunal') and dealt with by it may have its nuances but we have thought it apposite to put the controversy to rest. We have been apprised by learned counsel for the applicants that more than 3500 ex-sailors of the Indian Navy have been denied special pension, for the simple reason that they have not been treated as pensioners.

Be it noted, when the matter had originally travelled to this Court in Civil Appeal No.2147 of 2011, this Court had delivered a judgment on 27.10.2016. The direction given in the said judgment is to the following effect :

"25. Thus understood, all Sailors appointed prior to 3rd July, 1976 and whose tenure of initial active service/empanelment period expired on or after 3rd July, 1976 may be eligible for a Special Pension under Regulation 95, subject, however, to fulfilling other requirements. In that, they had not exercised the option to take discharge on expiry of engagement (as per Section 16 of the Act of 1957) and yet were not and could not be drafted by the competent Authority to the Fleet Reserve because of the policy of discontinuing the Fleet Reserve Service w.e.f. 3rd July, 1976. The cases of such Sailors (not limited to the original applicants before the Tribunal) must be considered by the Competent Authority within three months for grant of a 'Special Pension' from three years prior to the date of application made by the respective Sailor and release payment after giving adjustment of Gratuity and Death-cum-Retirement-Gratuity (DCRG) already paid to them from arrears.

They shall be entitled for interest @ 9% P.A. on the arrears, till the date of payment."

On 20.09.2018, it was submitted by Mr. Balasubramanian that they are not entitled to Special Pension and that is why we had asked him to obtain instructions so that so many people are not denied of the basic amount by which they can survive.

We may note with profit that the amount of pension payable is approximately Rs.9000/- (Rupees nine thousand) per month to each of the ex-sailors under Regulation 95 of the Navy (Pension) Regulations, 1964.

There could have been a debate on the entitlement.

As regards payment of arrears, on being asked, learned counsel for the applicants/petitioners left it to the discretion of the Court. Mr. Balasubramanian, learned counsel for the Union of India, however, opposed the same.

Having heard learned counsel for the parties for some time, we think, it is a fit case where jurisdiction under Article 142 of the Constitution of India should be exercised and accordingly we direct the respondent-Union of India to pay Special Pension under Regulation 95 of the abovementioned Regulations, commencing 01st September 2018. To explicate, the amount shall be disbursed latest by 10th of October 2018.

It is hereby made clear, when we say, 'Special Pension has to be granted', no further technical issue shall be

raised. When we are exercising our jurisdiction under Article 142 of the Constitution of India, it has to be understood that we have passed this order, regard being had to the special features of the case and, therefore, it is not to be treated as a precedent.

Miscellaneous applications as well as the contempt petitions are disposed of accordingly.

Other pending applications, if any, stand disposed of.

.....CJI.
[DIPAK MISRA]

.....J.
[A.M. KHANWILKAR]

.....J.
[Dr. D.Y. CHANDRACHUD]

New Delhi.
September 27, 2018.