

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal Nos 287-288 of 2022
(Arising out of SLP(C) Nos 470-471 of 2022)
(D No 13864 of 2020)

Union of India & Anr

.... Appellant(s)

Versus

Symon T T & Ors

....Respondent(s)

ORDER

- 1 Delay condoned.
- 2 Leave granted.
- 3 By a judgment dated 3 August 2015, a Single Judge of the High Court of Kerala, while disposing of Writ Petition (C) No 22407 of 2015, held thus:

“The issue involved in the writ petition is squarely covered in favour of the petitioners by Ext.P3 judgment of this Court. Accordingly, the petitioners are entitled to the benefit of the said judgment and entitled to be redesignated with replacement scale of pay in the scale of Rs.3200-85-4900. As all of them have retired from service, they are entitled to get their retirement benefits re-fixed on the basis of the pay fixed on such upgradation along with arrears of pensionary benefits. The 2nd respondent shall consider the representations of the petitioners and grant them all benefits on the basis of the upgradation/restructuring and replacement of the scale of pay of the post from which they retired, by re-fixing their pay and pensionary benefits. The arrears of pensionary benefits, on the basis of such re-fixation of pay and pension, along with all -other monetary benefits, shall be paid to the petitioners within a period of four months from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR

JUDGE

mns

The pay scale "Rs.3200-85-4900" occurring in the fifth line of the judgment dated 03/08/2015 is corrected and substituted as "Rs. 4000-100-6000" as per order dated 07/07/2016 in I.A.No.10028/2016 in W.P.(C).No.22407/2015.

Sd/-
Registrar (Judicial)"

- 4 As the note which is appended above indicates, the pay scale of Rs 3200-85-4900 was substituted with the pay scale of Rs 4000-100-6000 in pursuance of an order dated 7 July 2016 of the Single Judge in IA No 10028 of 2016.
- 5 The Division Bench, in its judgment dated 19 July 2019 in Writ Appeal No 1672 of 2016, specifically noted that the Union of India and the Director General of Assam Rifles, who were in appeal, "have absolutely no objection in extending the benefit of Ext P-1 judgment to the respondents/writ petitioners".
- 6 It is common ground between Mr Sanjay Jain, Additional Solicitor General appearing on behalf of the appellants, and Mr Jaideep Gupta, Senior Counsel appearing on behalf of the respondents, that the reference to Exhibit P-1 judgment in the judgment of the Division Bench is to the judgment of the High Court of Guwahati, speaking through its Division Bench, dated 22 September 2011 in Writ Appeal No 50 (SH) of 2010. Special Leave Petition (Civil) CC 6241 of 2012 against the judgment of the High Court of Guwahati was dismissed by this Court on 2 July 2012.
- 7 The judgment of the High Court of Guwahati has attained finality in view of the dismissal of the Special Leave Petition. As a matter of fact, as the Division

Bench noted in the impugned judgment, the Union of India has no difficulty in implementing the judgment. The limited grievance which has been urged on behalf of the appellants by the Additional Solicitor General is in regard to the substitution of the pay scale of Rs 3200-85-4900 with the pay scale of Rs 4000-100-6000 in the judgment of the Single Judge. The ASG has submitted that the substitution of the pay scale was not warranted. Buttressing these submissions further, it has been urged that, in the Assam Rifles, Radio Operators are not required to hold a diploma, whereas Radio Mechanics are required to hold a diploma. Hence, the pay-scale applicable to the latter cannot be extended to the former.

- 8 We find from the impugned judgment of the Division Bench of the High Court that the issue as to whether the Single Judge was justified in substituting the original pay scale, as contained in the order dated 3 August 2015, with the pay scale as modified on 7 July 2016, has not been analysed. The correctness of the pay scale, as modified to Rs 4000-100-6000, should, in this view, be reconsidered by the Division Bench for which purpose, we intend to remand the proceedings on this limited issue. We clarify that since the judgment of the High Court of Guwahati has attained finality, that does not form the subject matter of any dispute and cannot be reopened.
- 9 In order to facilitate a considered view being taken by the High Court of Kerala on the above aspect, we restore Writ Appeal No 1672 of 2016 for consideration afresh limited to the correctness of the pay scale as modified by the Single Judge by the order dated 7 July 2016 in IA 10028 of 2016.
- 10 Having regard to the fact that the respondents are stated to have retired from service, we would request the Division Bench of the High Court of Kerala to endeavour an expeditious disposal of the Writ Appeal, preferably, within a period

of two months of the date of receipt of a certified copy of this order, subject to the exigencies of work.

- 11 The appeals are accordingly disposed of in the above terms.
- 12 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[A S Bopanna]

New Delhi;
January 10, 2022
-S-

ITEM NO.23

Court 4 (Video Conferencing)

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).13864/2020

(Arising out of impugned final judgment and order dated 03-08-2015 in WPC No. 22407/2015 and 19-07-2019 in WA No. 1672/2016 passed by the High Court of Kerala at Ernakulam)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

SYMUN T.T. & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.76833/2020-CONDONATION OF DELAY IN FILING)

Date : 10-01-2022 These petitions were called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Sanjay Jain, ASG
Ms. Aakanksha Kaul, Adv.
Mr. S.S. Rebello, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. Sughosh Subramanyam, adv.
Mr. Anukalp Jain, Adv.

For Respondent(s) Mr. Jaideep Gupta, Sr Adv.
Mr. G. Prakash, AOR
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.

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

- 1 Delay condoned.
- 2 Leave granted.
- 3 The appeals are disposed of in terms of the signed order.
- 4 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)