



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-03-2025**

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**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM**

**AND**

**THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**WP No. 1311 of 2025**

**and**

**WMP.Nos.1563 and 1564 of 2025**

1. Union of India

Rep by the Secretary, Govt of India,  
Ministry of Defence,  
Room No. 227-B Wing, Sena Bhawan,  
New Delhi- 110 011

2. The Chief of the Naval Staff  
Integrated Headquarters of MoD  
Ministry of Defence (Navy),  
New Delhi- 110 011

3. The Joint Director  
Pension Section for PDPA,  
Directorate of Pay and Allowances,  
IHQ of MoD (Navy),  
New Delhi- 110 011

4. Principal Controller of Defence  
Accounts (pensions)  
Draupadi Ghat, Allahabad,  
Uttar Pradesh, Pin- 211 014.



5. The Logistics Officer – in-Charge,  
Naval Pension Office,

C/o. INS TANAJI, Sion- Trombay

Road,

Mankhurd, Mumbai- 400 088.

6. The Vice Admiral

Appellate Authority, IHQ of MOd

(Navy),

New Delhi- 110 011

Petitioner(s)

Vs

1. Ex RO I (TEL) SSA Robinson

S.NO. 106469-A,

S/o. S.A.Christopher,

H. NO. 10-4-12, Ex Servicemen

Colony,

Behind LIC Office,

Kothagudem 507 101,

Bhadradi Kothagudem Dist,

Telangana.

Respondent(s)

**PRAYER**

To call for the records dated 16.11.2022 passed in OA No.63 of 2020 with MA No.63 of 2020 on the file of the Armed Forces Tribunal, Regional Bench, Chennai, Circuit Bench Hyderabad, thereby quashing the impugned order.

For Petitioner(s): Mr.V.Balasubramanian  
Special Government Pleader

For Respondent(s): M/s.V.Shalini



**ORDER**

**(Order of the Court was made by S.M.Subramaniam J.)**

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Under assail is the order of the Armed Forces Tribunal, Regional Bench, Chennai dated 16.11.2022 passed in O.A.No.63 of 2020.

2. The Union of India is the Writ Petitioner. The uncontroverted facts between the parties reveal that the respondent enrolled in the Indian Navy on 03.07.1976. He was discharged on 31.07.1986 in the rank of RO I (Tel) after rendering 10 years and 29 days of service. The respondent was classified as a non-pensioner and he was not granted any pensionary benefits. Admittedly, modifications/amendments were introduced in the Naval Services, with effect from 03.07.1976, requiring a minimum of 15 years of service for pension eligibility.

3. Curiously, the 1st respondent submitted an application seeking pension after a lapse of about 32 years, in the years 2018 and 2019, respectively. Since his representations were not considered, the Original Application was filed before the Armed Forces Tribunal.

4. The Armed Forces Tribunal adjudicated the issues based on the facts relating to the services rendered by the respondent. The Tribunal entertained the Original Application mainly on the ground that pension is a



continuing cause of action, and therefore, the ground of delay raised by the Union of India is not entertainable. On merits, the Tribunal found that the appellant had not addressed the basic question regarding the terms of engagement of the respondent, who enrolled in the Indian Navy on 03.07.1976 and was eligible for extended term of engagement for 15 years, as per the notification dated 03.07.1976. In paragraph No.9, the Armed Forces Tribunal made a finding that the respondent shall be deemed to be in service till he completes 15 years of pensionable service, so as to make him eligible for grant of service pension.

5. This Court is of the considered opinion that such a findings made by the Tribunal is beyond the scope of the service rules as applicable to the Navy personnel and in violation of the established principles in service jurisprudence. The Tribunal ought not to have extended the actual services rendered by the respondent. Admittedly, the actual services rendered by the respondent is 10 years and 29 days. Therefore, the question of deemed extension of service till the respondent completes 15 years of pensionable service is beyond the scope of service rules. Therefore, the said finding is infirm and in violation of the basic principles of service jurisprudence.

6. Even as on the date of issuance of the modified notification on 03.07.1976, the respondent was in service. Therefore, he was aware of the fact that the minimum service required for the grant of pension is 15 years. The



appellant in their counter stated that Ex-sailor/respondent had deserted from active service and was marked 'RUN' with effect from 02.02.1977. He was subsequently tried under the Navy Act, 1957, for the offense of desertion and awarded 30 days detention, effective from 28.03.1977. The respondent was eventually discharged from service on 31.07.1986 on expiry of his engagement period as a non-Pensioner.

7. In the present case, question of continuing cause of action would not arise, since the respondent was declared as non-pensioner. Once a naval personnel member is declared non-pensioner, it is an administrative decision taken finally by the competent authority, which is to be construed as the basis for initiating further action. Therefore, the concept of continuing cause of action would have no application with reference to the facts established in the case on hand.

8. Section 22 of the Armed Forces Tribunal Act prescribes limitation. The case on hand falls on sub-section (2) to Section 22. Therefore, the Original Application filed before the Armed Forces Tribunal is liable to be rejected on the ground of delay. Unconsonable delay cannot be condoned in a routine manner. In the present case, the Tribunal has considered that the pension is a continuous cause of action. Undoubtedly, a pensioner receiving pension can be aggrieved by reduction of pension or erroneous fixation, and in such cases, the principles of continuing cause of action would arise. However, in cases where



personnel are declared as Non-Pensioners and the final decision was communicated, the question of continuing cause of action does not arise at all.

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9. In view of the fact that the respondent has not established even a semblance of legal right with reference to the service rules applicable to Naval Services, the relief granted by the Tribunal is beyond the scope and the ambit of service rules applicable and more so, the application is hit by Section 22 of Armed Forces Tribunal Act, 2007.

10. For all these reasons, the impugned order dated 16.11.2022 passed in OA No.63 of 2020 with MA No.63 of 2020 on the file of the Armed Forces Tribunal, Regional Bench, Chennai is set aside. The Writ Petition stands allowed. No costs. The connected Miscellaneous Petitions are closed.

**(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)**

**03-03-2025**

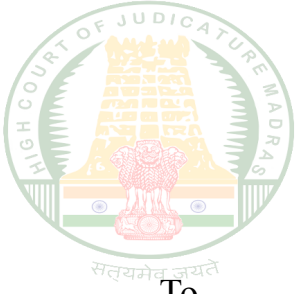
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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1.Ex ROI (TEL) SSA Robinson  
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Kothagudem 507 101 Bhadradri  
Kothagudem Dist, Telengana.



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**S.M.SUBRAMANIAM  
J.  
AND  
K.RAJASEKAR J.**

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