

21. 13.01.2026
Court No.8
(Tanmoy)

MAT/277/2025

IA NO: CAN/1/2025, CAN/2/2025, CAN/3/2025

UNION OF INDIA AND ORS.

VS

DILIP KUMAR PAUL AND ORS.

Ms. Chandreyi Alam

Ms. Sumita Sarkar

...for the applicants/appellants.

Mr. Arjun Ray Mukherjee

Ms. Debapriya Mitra

Mr. Joyjeev Medhi

...for the respondents.

Dictated by Arijit Banerjee, J.

1. By consent of the parties, the appeal and the connected applications are taken up together for hearing.

2. This appeal is directed against a judgment and order dated July 16, 2019, passed by a learned Judge of this Court in WP/5621(W)/2019. There is a delay of 1305 days in presenting this appeal, as noted by the Stamp Reporter.

3. We have heard learned Counsel for the parties on the point of limitation. The explanation furnished in the petition for condonation of delay does not appeal to us. In any event, we are not inclined to entertain this appeal for the following reasons:

4. One Salil Kumar Paul, who was a freedom fighter, filed a writ petition in the year 2011 being WP No. 11071(W) of 2011, seeking pension under Swatantrata Sainik Samman Pension Scheme, 1980. By a judgment and order dated July 4, 2013, a learned Judge of this Court directed the Secretary, Ministry of Home Affairs to release pension in favour of Salil Kumar Paul from the date of his application, within three months from the date of communication of the order.

5. In 2013, the Union of India preferred an appeal against the said order dated July 4, 2013 being MAT/1869/2013 (renumbered as FMA/3724/2014).

6. On March 18, 2014, Salil Kumar Paul expired.

7. On May 4, 2018, the Union's appeal being FMA/3724/2014 was dismissed for default. We understand that there was an *interim* order subsisting in the appeal which stood dissolved upon the appeal being dismissed.

8. In 2019, the legal heirs of late Salil Kumar Paul filed a writ petition being WP/5621(W)/2019, seeking, *inter alia*, implementation of the order dated July 4, 2013 that was passed in WP/11071(W)/2011. By an order dated July 16, 2019, a learned Single Judge of this Court allowed

the writ petition by directing the Union of India to release the amount of pension with interest within seven days from the date of communication of the order.

9. Since the Union of India did not comply with the order dated July 16, 2019, a contempt application was filed by the legal heirs of late Salil Kumar Paul being CPAN/920/2019. When the contempt application came up for hearing before the learned Single Judge, learned Counsel appearing for the alleged contemnors being Officers of the Union of India, prayed for leave to file compliance report within six weeks from that date. However, no such report was filed. It now appears that the Union of India had already filed the present appeal on February 25, 2025. However, since there was a huge delay of 1305 days in presenting this appeal, as noted by the Stamp Reporter, in the eye of law there was no appeal.

10. In the aforesaid factual scenario, learned Counsel for the Union of India prays for condonation of delay of 1305 days, admission of the appeal, for an order allowing the substitution application that has been filed being IA No: CAN/3/2025 for recording the death of one of the writ petitioners and to bring on

record her legal heirs and for setting aside of the order impugned in this appeal.

11. We are absolutely not inclined to entertain this appeal. The conduct of the appellants has been deplorable, to say the least. Initially, the freedom fighter himself had to approach the Court for an order directing the Government to disburse pension in his favour under the aforesaid Scheme. Although the learned Single Judge's order was challenged in appeal by the Union of India, the appeal was allowed to be dismissed for default. Till date, that appeal has not been restored. In other words, the parent order dated July 4, 2013 stands unchallenged as of date.

12. The subsequent order dated July 16, 2019, passed by another learned Judge of this Court was merely for implementation of the earlier order dated July 4, 2013. That order is now sought to be challenged in this appeal. Even if we were to set aside the order under appeal, the parent order would remain. This is not to say that we are inclined to interfere with the order under appeal. We see no infirmity in the order impugned since, by the said order the learned Single Judge merely directed implementation of the earlier order dated July 4, 2013 which stands un-assailed as of date.

13. The appeal being MAT/277/2025 and the connected applications being IA No: CAN/1/2025, CAN/2/2025, CAN/3/2025 stand dismissed.

14. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all requisite formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)