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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 12781/2024  
UNION OF INDIA & ORS.

.....Petitioners

Through: Ms Avshreya Pratap Singh Rudy,  
SPC with Mr. Kaushal Jeet Kait, Adv. G.P., Ms  
Usha Jammal, Adv. Mr Bishwajyoti Pal, Adv. Col.  
Gaurav Verma, Adv. and Major Anish Muralidhar.

versus

SUB TRILOK CHAND RETD NO. JC374073A & ANR.

.....Respondents

Through: Mr. Udhav Shanker Maurya, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**ORDER**

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**11.09.2024**

**CAV 453/2024**

1. Since learned counsel for the caveators enter appearance, the caveat stands discharged.

**CM APPL. 53287/2024**

2. Exemption allowed, subject to all just exceptions.
3. The application stands disposed of.

**W.P.(C) 12781/2024 & CM APPL. 53286/2024 –Stay**

4. The present petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 24.07.2024 passed by the Armed Forces Tribunal (AFT), Principal Bench, New Delhi in Original Application (O.A.) No. 2307/2024. Vide the impugned order, the



learned AFT, while issuing notice in the O.A. preferred by the respondents, has, by way of an interim measure, stayed the recovery/reduction of the commuted portion from the respondents' pension by accepting their plea that their full pension was required to be restored after 12 years as against the initially agreed period of 15 years for restoration thereof.

5. Learned counsel for the petitioners submit that the impugned order is wholly perverse as the learned AFT has passed the interim order by relying on three other interim orders passed by the High Court of Punjab & Haryana by overlooking the fact that this Court has in ***Forum of Retired IPS Officers (FORIPSO) vs Union of India 2019 SCC OnLine Del 6610*** already rejected an identical claim by the Forum of Retired IPS Officers seeking directions for reducing the period during which the portion of computed pension was withheld. The petitioners, she submits have been compelled to approach this Court against this interim order as identical orders restraining them from making deductions towards the commuted portion of pension have been passed by the learned AFT, causing grave prejudice to them. The learned AFT, she contends, has accepted the respondents' plea that the commuted portion of pension could be withheld only for a period of 4 years. She, therefore, prays that impugned order be set aside.
6. Issue notice. Mr. Maurya accepts notice on behalf of the respondents. While praying for six weeks' time to file a counter affidavit, he submits that though the impugned order relies only on orders passed by the High Court of Punjab & Haryana, similar orders staying the



recovery of the commuted portion of pension beyond 12 years have also been passed by High Court of the State of Telangana and by the High Court of Judicature at Allahabad. Further, similar interim orders have been passed by the learned AFT itself in over 100 pending O.A.s. Finally, he contends that the impugned order only being an interim order, this Court ought not to interfere with the same in exercise of its writ jurisdiction. He, therefore, prays that the writ petition be dismissed.

7. Having considered the submissions of learned counsel for the parties and perused the record, even though we are in agreement with the respondents that the impugned order is only interim in nature, with which this Court in exercise of writ jurisdiction would normally not interfere, taking into account the ramification of the interim order and the admitted position that over 100 O.A.s have already been filed by pensioners seeking restoration of the commuted portion of the pension after 12 years before the learned AFT wherein identical interim orders have been passed, we are of the view that this is a fit case where this Court ought to examine the correctness of the impugned order. We, therefore, proceed to examine the merits of the petitioners' challenge and find that even though the respondents do not deny that while exercising their option for commutation of pension they were made aware that the commuted portion of their pension, would be restored only after 15 years, the learned AFT has, by way of the interim order, directed restoration thereof before completion of the 15 years period. The grant of this interim relief to the respondents, in our view, would amount to the grant of final relief as sought by them in their O.A.



8. We also find that the impugned order does not even refer to the decision of this Court in *Forum of Retired IPS Officers (FORIPSO) vs Union of India* 2019 SCC OnLine Del 6610, wherein a similar claim for restoration of the commuted portion of pension after 12 years as against the agreed term of 15 years, was rejected.
9. In these circumstances, we are of the view that the petitioners' have been able to make out a *prima facie* case in their favour. Grave prejudice will be caused to the petitioners in case the operation of the impugned order is not stayed as they would, under the impugned order, be compelled to restore the commuted portion of the respondents' pension after 12 years itself. It is, therefore, directed that till the next date of hearing, the operation of the impugned order will remain stayed.
10. As prayed for, the respondents are granted six weeks' time to file a counter affidavit and a reply. Rejoinder(s) thereto, if any, be filed within four weeks thereafter.
11. List on 03.12.2024.

**REKHA PALLI, J**

**SHALINDER KAUR, J**

**SEPTEMBER 11, 2024**  
**acm**