

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

29.

MA 3196/2023 with MA 3197/2023 in OA 1459/2022

Union of India &Ors.

... Applicant

Versus

Ex Nk Suresh Mukatee

... Respondents

For Applicant : Mr. Sudhir Kumar, Advocate

For Respondents : Mr. Ved Prakash, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT. GEN. P.M. HARIZ, MEMBER (A)

O R D E R
10.08.2023

MA 3196/2023

This is an application filed under Section 30 read with Section 31 of Armed Forces Tribunal Act, 2007. Section 30 empowers the aggrieved person to directly file an appeal before the Hon'ble Supreme Court against the order passed by this Tribunal and therefore filing this application before this Tribunal is wholly misconceived and respondents can file the same under Section 30 before the Supreme Court instead of filing it before this Tribunal.

2. As far as Section 31 is concerned, the application for leave to appeal can be filed to seek certificate from this Tribunal to the effect that a point of law of general public importance is involved and it appears to this Tribunal that the Supreme Court should consider the same. Surprisingly in this case the

respondents are seeking leave to appeal to challenge the order passed by this Tribunal on 11th November, 2022 in the matter of grant of notional increment to the employee concerned. The order passed by this Tribunal was based on various judgments of the Central Administrative Tribunal and the Madras High Court and at the point of time on 11th November, 2022 when the appeal was filed certain SLPs were pending before the Supreme Court. However, when this application under Section 31 seeking leave to appeal was filed on 2nd August, 2023, the law with regard to grant of notional increment has already been decided by the Supreme Court in the case of *The Directorate (Admn and HR) KPTCL and Ors. Vs. C. P. Mundinamani and Ors.* Civil Appeal 2471 of 2022 decided on 11th April, 2023, the Supreme Court has decided the issue and the judgments rendered by the Central Administrative Tribunal and Madras High Court in various cases were upheld by the Hon'ble Supreme Court. That being so, the issue which was considered and decided by this Tribunal on 11th November, 2022 on the date of filing of this application seeking leave to appeal already stands decided by the Hon'ble Supreme Court. That being so, the ingredients necessary for seeking leave to appeal are not available.

3. That being so, we find no reason to grant leave to appeal. The same is therefore dismissed both on the ground of merit and delay.

4. Let a copy of this order be provided *DASTI* to learned counsel for both the parties.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

Priya
MA 3196/2023