

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

64.

MA 3480/2023 in OA 1438/2021

Maj S Eswari

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Mr. S S Pandey, Advocate

For Respondents

: Mr. Satya Ranjan Swain, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

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

ORDER
29.11.2023

We had passed a detailed order on 06.11.2023 and the respondents were directed to submit a compliance report. In the order passed by us on 06.11.2023, we had taken note of the fact that even after dismissal of the SLP on 22.09.2023, the respondents have not complied with the order and today when the matter is taken up nothing is brought on record except an oral prayer is made seeking more time to comply with the matter. We don't appreciate the manner in which the respondents are treating the matter, taking note of the fact that under Section 19 of the Armed Forces Tribunal Act 2007 even though there is power for contempt but the wordings of the Section indicate that the contempt can be initiated only in specific circumstances as are detailed in the statutory provision and the issue as to whether this Tribunal has contempt power with regard to breach of its order or not is subjudice before the Larger Bench in the case of *Col. Mukul Dev Vs. Shri R.K.Mathur* and that being so judicial propriety require that till the matter decided by the Larger Bench, this Tribunal should not initiate contempt proceedings. However, that does not deterrent this court on being prima facie satisfied about a contempt being committed to make a reference of the matter to a higher court for taking contempt action against the respondents and therefore this is a fit case where this court should exercise its discretion and refer the matter to the Hon'ble Chief

Justice of the Delhi High Court for initiating contempt of court proceedings against the officers who are responsible for disobeying the order passed by this Tribunal in OA No.1438/2021 on 19.04.2023. Accordingly, the file be placed before the Principal Registrar for drawing a reference order and forwarding the same to Hon'ble Chief Justice of the Delhi High Court under the provisions of the Contempt of Court Act 1970.

As a matter of last indulgence, before the reference is initiated, the respondents may purge the contempt, comply with the order and seek for withdrawal of this failing which they should submit the list of officers who are responsible for having committed the contempt so that the same can be forwarded by the Principal Registrar to the Hon'ble Chief Justice of the Delhi High Court.

List the matter for considering the issue of movement and posting of the applicant on **08.12.2023**.

'DASTI'.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

/sm/