

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

95.

MA 5077/2023 in OA 1327/2022

Nk/DSC K Balu (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. U S Maurya, Advocate
For Respondents : Mr. V Pattabhi Ram, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R
06.12.2023

MA 5077/2023

Invoking the jurisdiction of this Tribunal under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008, the applicant has filed this application and the relief claimed in the application reads as under:-

“In view of the facts and circumstances, it is most humbly submitted that this Hon'ble Tribunal may please to direct Banks to stop recovery of whole pensionary entitlement soona and only 1/3rd of pension in monthly instalment of pensionary entitlements be recovered as per policy in vogue and reaming 2/3rd pensionary entitlements amount to be paid soon by removing the hold in applicant's bank account by bank after adjusting pension from 01-06-2022 to till date as per PPO (Annexure MA-3 Colly)”.

2. Facts in nutshell indicate that the applicant invoke the jurisdiction of this Tribunal in OA No. 1327/2022 and claimed Second Pension for the service rendered by him in the DSC. As there was shortfall of 14 days in completing the mandatory qualifying service of 15 years in OA NO. 1327/2022, prayer made was to condone the shortfall in the light of the Full Bench Judgement in the case of Smt Shama Kaur Vs. Union of India and Ors (OA No.1238 of 2016 decided on 01.10.2019), and grant Second Pension to the applicant. The application was allowed. Shortfall of 14 days was condoned and respondents were directed to pay the pensionary benefits. Now, it is the grievance of the applicant that while granting him pensionary benefits, respondents vide PPO'S and documents filed in this application are proposing recovery for a sum of Rs. 8,36,150/- under various heads as are indicated herein under and the applicant wants the said recovery to be stopped and quashed in this proceeding under Rule 25:-

S/No.	Particulars	Amount of Credit in Rs.
(i)	Recovery amount.	8,36,150/-
(ii)	Pension from 01-06-2022 to 31-10-2023	4,98,784/-
(iii)	Net balance of Recovery	3,37,3756/--

3. In our considered view, once the OA was disposed of and for settling the second pensionary claim of the applicant, in case,

respondents are recovering certain amount, as indicated collectively along with this application, a separate cause of action arise to the applicant to challenge recovery in accordance with law and not through an application under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008. The application being misconceived and not maintainable is dismissed.

4. Applicant has liberty to challenge the action of the respondents afresh in accordance with law invoking the jurisdiction before an appropriate forum.

5. MA stands disposed of.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT. GEN C. P. MOHANTY]
MEMBER (A)**

/jyoti/