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

36.

MA 1748/2023 AND MA 2264/2023 IN OA 124/2014

In the matter of :

Ex Capt Manoj Rawat ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Shri Anand Kumar, Advocate

For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM :

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

O R D E R
30.05.2023

MA 2264/2023

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

MA stands disposed of.

MA 1748/2023

2. Having heard learned counsel for the parties with regard to the prayers made in the application, we find that while taking adminstrative action against the applicant a show cause notice was issued and the applicant was discharged from service. However, while doing so 50% of

the pension of the applicant was also withheld. However, in the show casue notice issued to the applicant with regard to the action proposed to be taken vide Annexure P-11 dated 20.02.2014, available in the record of OA 124/2014, there was no indication that the respondents also propose to curtail the pension payable to the applicant after his discharge.

3. Taking note of the aforesaid aspects of the matter, the issue was analaysed and discussed by this Tribunal in its order passed on 24.12.2021 in OA 124/2014 and in Para 21 it was held that the action taken for withholding or reducing the pension without show cause notice is contrary to law and to that extent interference was made, but liberty was granted to the respondents that in case they wanted to take action for forfeiture, reduction or withholding the pension, they could do so only after following due process of law. Inter alia, contending that respondents have not paid the pension to the applicant and have not complied with the orders passed; particularly the directions contained in Para 2, this application has been filed. However, now from the counter affidavit filed by the respondents we find that in pursuance to the liberty granted

to the respondents, vide Annexure R1 dated 8.05.2023. They have issued a show cause notice to the applicant with regard to forfeiture or withholding of pension and the show cause is now pending consideration before the Competent Authority. The applicant is required to file a reply and thereafter based on the reply the Competent Authority is required to take a decision.

4. Shri Anand Kumar, learned counsel for the applicant advanced a contention before us to say that as the show cause notice for withholding/reduction of pension has now being issued after such a long period of time the action proposed in the show cause notice should be prospective and cannot be given retrospective effect along with administrative order passed which was subject matter of adjudication in OA No. 124/2014. These are all objections which, in our considered view could be raised by applicant, at the first instance, in reply to the show casue notice before the Competent Authority and thereafter it would be for the Competent Authority to take note of the same in accordance with the statutory rules and regulations and, therefore pass a speaking order with regard to the objections, in case the applicant has any grievance still subsisting after a final

decision is taken, applicant can invoke the jurisdiction of this Tribuanl under Section 14, Armed Forces Tribunal Act, 2007 and this Tribunal would deal with the matter. With the aforesaid liberty to the applicant and directions to the respondents to consider the issue in accordance with the rule, we dispose of this matter. MA stands disposed of.

5. A copy of this order be provided ***'DASTI'*** to learned counsel for both the parties.

[RAJENDRA MENON]
CHAIRPERSON

[C P MOHANTY]
MEMBER (A)

/ps/