

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

30.

MA 4105/2023 in OA 535/2022

Ex Sgt Ramesh Babu

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant

: Ms. Chhavi Yadav, Advocate for

Mr. Ajit Kakkar, 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

04.10.2023

OA 535/2022 was disposed off without obtaining counter affidavit and reply from the respondents on 12.04.2023, after condoning the delay of 15855 days-based on the pleadings of the applicant and taking note of the law laid down in various cases like *JWO P Gopalakrishnan Vs. Union of India & Ors.* (OA 62/2014 decided on 13.02.2015), the application was allowed and it was directed that the applicant be treated to have retired as Sgt and all consequential post retiral benefits be granted to the applicant in the rank of Sgt. However, this was subject to verification of records by the respondents. When this order was not complied with, applicant had filed this application seeking execution and today when the matter is taken up for consideration, respondents have filed a Speaking Order passed in the matter issued on 21.08.2023 wherein the claim of the applicant for grant of pensionary benefit in the last rank of Sgt has been rejected on the ground that in the verification conducted by the respondents, they are unable to come to a conclusion as to when and in what manner the applicant was promoted or appointed to the post of Sgt.

We have considered the reasons given in the order dated 21.08.2023 and we have also gone through the various records available and filed by the applicant in OA 535/2022. Without expressing our opinion on the merits of the documents available in the record of OA No. 545/2022, prima facie we are satisfied that it is not a case where without proper enquiry and verification, the benefit of last rank held by the applicant can be granted.

Taking note of the aforesaid, for the present, we see no reason to interfere into the matter in the execution proceedings. Respondents have filed a speaking order which was the liberty granted to them to do so after verification of the record and now in case the applicant has any grievance with regard to the manner in which his claim has been rejected vide the speaking order dated 21.08.2023, it gives a fresh cause of action to challenge the said order in accordance with law before an appropriate forum where all enquiry can be conducted and the issue sorted out. Accordingly, finding no case made out for interference in an execution proceedings in the peculiar facts and circumstances as have been mentioned hereinabove, we disposed off the matter with the liberty to the applicant as indicated hereinabove.

[RAJENDRA MENON]
CHAIRPERSON

[C.P. MOHANTY]
MEMBER (A)

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