

**COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

24

OA 1870/2020 with MA 1014/2023 , 1103/2023 & 1105/2023

Lt Col Saurabh Dutt Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : In Person
For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
05.04.2023

In terms of proceedings dated 27.03.2023, the applicant has placed on record, a copy of order dated 26.02.2020 passed in OA 1487/2018, whereby the question framed therein were referred to the Larger Bench for consideration were to the effect:

- i) Whether the judgment in the case of Maj Amit Kumar Mishra Vs Union of India & Ors(OA No.1229/2017 decided on 31st July, 2018) lays down the correct law with regard to powers available to the Central Government or the Prescribed Authority under Section 90(i), 91(i) of the Army Act, 1950, Section 90(i), 91(i) of the Air Force Act, 1950 and the relevant provisions of

the Navy Act, 1957 and the interpretation construed there under is in accordance with the principles of law particularly the principles of Interpretation of Statute?

- ii) Whether, as held in the case of Amit Kumar Mishra Section 90(i) of the Army Act and 91(i) of the Air Force Act are nothing but provisions incorporated to give effect to rights available to wives and children by virtue of a decree of maintenance awarded to them and to overcome the difficulties they may face in the matter of getting the amount of maintenance as per decree in view of the prohibition contained in Section 28 of the Army Act and Section 28 of the Air Force Act, Whether the interpretation in this regard made by the Bench in the case of Amit Kumar Mishra(supra) is in accordance with the settled principles of interpretation of a statute/law?
- iii) Whether the law laid down in the case of Amit Kumar Mishra is in conflict to the law laid down by the Bench in the earlier case of **Charanjit Singh** and others or the law laid down by the Hon'ble Delhi High Court in the case of **Jaideep Singh Chauhan**(supra) and if so, what should be the correct principle of law applicable with regard to the issue in question?
- iv) Any other question, as may be considered relevant by the Full Bench to the issue in question,

as may be canvassed by the counsel representing
the parties.

Re-list for final hearing on 18.04.2023 at the end of

Board.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

CHANANA