

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

A.

OA 1870/2020 with MA 1014/2023 , 1103/2023 , 1898/2023 & 2759/2023

Col Saurabh Dutt ..... Applicant

VERSUS

Union of India and Ors. .... Respondents

For Applicant : In Person

For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate  
Maj A.R. Subramanian, OIC, Legal Cell

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HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

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

ORDER  
18.04.2024

1. The matter is reserved for orders vide order dated 09.04.2024.

We however consider it essential that certain clarifications are given by either side.

2. In view of the order dated 08.12.2017 of the Hon'ble AFT(RB), Lucknow in OA 21/2015 with directions in Para-26 which read to the effect:-

*"26. In this back grounds, we are of the view that this application deserves to be allowed and is hereby allowed. Impugned orders dated 12.05.2014 and 26.11.2014 are hereby set aside. Matter is hereby remanded back to the Commanding Officer, who shall, after following the procedure prescribed under Army Order 2 of 2001, shall pass a speaking and reasoned order and thereafter the said recommendation shall be considered by the concerned*

*army authorities in the chain of command including the recommendations of the Commanding Officer will be considered by them and thereafter they shall pass a speaking and reasoned order. This exercise shall be completed within a period of four months from the date a certified copy of this order is produced before the Commanding Officer. It is hereby made clear that the competent authority shall consider the prayer of grant of maintenance of respondent no.6 and not with regard to the daughter Dhraiya.”,-*

(a) The respondent no. 1 is directed to specify the date of receipt of the Certified Copy of the said order dated 08.12.2017 in OA 21/2015 of the AFT(RB), Lucknow. The applicant has however submitted through the document placed at Pages- 10 and 11 in MA 1105/2023 that he had delivered the copy of this order on 04.01.2018. The respondent no. 1 shall submit the clarification at 2:15 p.m. today;

(b) The amount that the respondent no. 1 has deducted from the Pay & Allowances of the applicant from the date 08.12.2017 onwards for payment of maintenance to the respondent no. 2 be also specified by the respondent no. 1 at 2:15 p.m. today.

(c) In reply to a specific court query in view of the e-mail that the respondent no. 2 has sent dated 24.01.2023 with averments therein to the effect:-

*“Also pertinent to note that Lt Col Saurabh had failed to comply order passed by the Hon'ble AFT lucknow Bench vide it's order dated 08/12/2017 in OA mentioned in paragraphs 26, 27, that Saurabh should pay the 21/2015*

*maintenance amount to wife and daughter Dhairya till the final order of Army as the said matter was remanded back to Army authorities, he made his own interpretation and stopped giving maintenance to me and for daughter Dhairya he stopped since March 2019 till the Family court had ordered interim maintenance. Saurabh still failed to pay the interim maintenance even after it was ordered of which a recovery warrant application was filed and action was to be taken against him, only then did Saurabh took an undertaking that he adjusted the maintenance arrears amount after the Family Court adjusted the maintenance amount given by the Army authorities at that time and released an amount of 5,32,492/- to me of which still recovery amount has to be retrieved and Saurabh is liable to pay for the same. The said Cheque amount pic is attached and annexed as Annexure-7.”*

as in view the copy of a Cheque bearing no. 852525 dated 18.10.2022 in favour of the respondent no. 2 as issued by the Learned Judge, Family Court, Ahmedabad for sum of Rs. 5,32,492/-, it was put to the respondent no. 2 as to from what funds this amount was released to the respondent no. 2 by the Learned Judge, Family Court, Ahmedabad, the respondent no. 2 has stated that this amount was released from the amount of interim maintenance deposited by the applicant in the Court of the Learned Judge, Family Court, Ahmedabad.

In relation to the said aspect it is submitted by the applicant that he had deposited a sum of Rs.5,74,412/- as averred in Para-6.2 of the supplementary affidavit dated 23.02.2024 as submitted by him along with which is also Annexure- E placed at page-222 of the records which is an order to the Nazir to accept the amount of Rs. 2,00,000/-

and Rs. 3,74,412/- vide order dated 20.08.2022 vide Demand Draft bearing nos. 505331 of the ICICI Bank and Demand Draft no.631629 of the State Bank of India, and the applicant submits that he is not aware as to why the amount lesser than the amount of Rs. 5,74,412/- was released over to the respondent no. 2.

(d) It is essential that in view of the submissions that have been made by the Respondent no. 2 vide the document dated 24.01.2023 sent to us by the mail on 09.04.2024, the respondent no. 1 shall clarify whether any payments in relation to any maintenance in the proceedings before the Family Court, Ahmedabad and whether any adjustments in relation to the said amount if any paid by the respondent no. 1 to the respondent no. 2 pursuant to maintenance proceedings before the Family Court, Ahmedabad have been made from the Pay & Allowances of the applicant which be so clarified by the respondent no. 1 through documents at 2:15 p.m. today ;

(e) The respondent no. 2 shall likewise mail to the Bench by 2:15 p.m. today, all documents in relation to her contentions that for non deposit of interim maintenance by the applicant, amounts were paid by the respondent no. 1 to her towards the interim maintenance awarded by the Family Court, Ahmedabad ;

(f) In view of directions in the order dated 08.12.2017 in OA 21/2015 vide Para-27 which is to the effect:-

*“27. In order to safeguard the welfare of the wife also, we consider it appropriate to direct the applicant to pay Rs.15,000/- per month to his wife, respondent no.6 through his bank account as interim maintenance allowance, which shall be paid by the applicant in the first week of every month and the said interim maintenance allowance shall not be deducted directly from his salary. In case of two consecutive defaults in making payment of this interim maintenance, respondent authority shall be at liberty to order for the deduction of maintenance allowance directly from the salary of the applicant and deduction of this interim maintenance to the respondent no. 6, which shall remain effective till the final order is passed by the competent authority.”,*

the applicant is directed to specify the amount paid by him per month in terms of the said order dated 08.12.2017 in OA 21/2015 of the AFT(RB), Lucknow to the respondent no. 2 and the date from which the said payment commenced and the date till when the payment was made.

3. In relation thereto i.e. qua 2(f) herein above, the applicant has drawn our attention to Annexure- A placed at Page-136 of the Supplementary Affidavit dated 23.02.2024 filed by the applicant in relation to amounts paid in the year 2018 and it is submitted by the applicant that a sum of Rs. 57,283/- was paid by the Army Authorities by the order of the Headquarters, Central Command to the respondent no. 2 for the month of January, 2018 and likewise a sum of Rs. 57,283/- was paid by the order of the Headquarters, Central Command to the respondent no. 2 for the month of February, 2018

and the applicant submits thus pursuant to the orders dated 08.12.2017 for the months of January and February 2018, the applicant paid nothing to the respondent no. 2 as the applicant submits that the deductions made by the respondent no. 1 were far more than that ordered by the Hon'ble AFT(RB), Lucknow vide order dated 08.12.2017 in OA 21/2015. It is further submitted by the applicant that even as per Annexure-A at Page-136 to the said supplementary affidavit dated 23.02.2024 for the month of December, 2017, the Army Authorities had deducted a sum of Rs. 26,826/- from the applicant for payment of maintenance. The applicant in reply to a specific Court query clarifies that he has not made any payment to the respondent no. 2 in terms of Para-27 of the order dated 08.12.2017 in OA 21/2015 of the AFT(RB), Lucknow but says that he has not made any such payment in view of excess deductions of the sum of Rs. 26,286/- in December,2017 and excess payment by way of deductions of sum of Rs. 57,283/- for the months of January, 2018 and February, 2018 for each of the said months from the pay and allowances by the Respondent no. 1.

4. The proceedings shall be taken up today at 2:15 p.m. today. In as much as the present OA arises out of a matrimonial discord and in view of the factum that the operation of the grant of the Divorce decree dated 30.09.2022 by the Learned Judge, Family Court, Ahmedabad in

Regular First Appeal no. 4298/2022 stands stayed by the orders of the Hon'ble High court of Gujarat, we considered it essential to ascertain the possibility of a reconciliation, which however was to no avail.

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

**(LT GEN P.M. HARIZ)**  
**MEMBER (A)**

TS

**For Applicant** : In Person  
**For Respondents** : Dr. Vijendra Singh Mahndiyan, Advocate  
Maj A.R. Subramanian, OIC, Legal Cell

**AT 2:15 PM**

1. It is informed on behalf of the respondent no. 1 that the copy of the order dated 08.12.2017 in OA 21/2015 of the AFT(RB), Lucknow was dispatched from the Legal cell on 09.01.2018 to the JAG Department( Litigation), Army Headquarters.

2. A reference is also made on behalf of the respondent no. 1 to Appendix- A to the letter dated 27.03.2022(which ought read as 27.03.2024 as submitted on 28.03.2024) on behalf of respondent no. 1 in response to the Supplementary affidavit dated 23.02.2024 of the applicant and reference is thus also made on behalf of the respondent

no. 1 for the period of December 2017, January 2018 and February 2018 as per the said chart and it submitted on behalf of the respondent no. 1 that the due drawn column perhaps relates to the amount to be recovered from the applicant.

3. It is submitted on behalf of the respondent no. 1 that it has been clarified that there has been no deduction made by the Respondent no. 1 of the sum of Rs 15,000/- per month to be paid to the respondent no. 2 in terms of Para-27 of the order dated 18.12.2017 in OA 21/2015 of the AFT(RB), Lucknow in as much as there were directions to the applicant to pay to the respondent no. 2 herein the interim maintenance allowance in the Bank account.

4. Pursuant to the proceedings earlier during the course of the day, the respondent no. 2 has sent the e-mails on 18.04.2024, printouts of which are placed on record.

Heard.

Reserved.

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

**(LT GEN P.M. HARIZ)  
MEMBER (A)**

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