

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

51.

MA 5198/2024
In MA 1552/2024
OA 4041/2023

Sgt Ashish G Patel (Retd) Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Tatsat Shukla, Advocate
For Respondents : Mr. Kumar Gaurav, Advocate

CORAM

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

O R D E R
06.01.2025

MA 5198/2024

This Application has been filed for review/restoration of MA No.1552/2024 seeking execution of the Order passed in OA 4041/2023 which was disposed of by this Tribunal vide Order dated 20.12.2023. It is seen that in compliance of the said Order the respondents have passed a speaking order indicating that the applicant was not entitled to the benefit claimed in accordance with the law laid down by this Tribunal in the case of *Sub M.L Shrivastava and Ors. Vs. Union of India and Ors.* (O.A No. 1182 of 2018) decided on 03.09.2021.

2. Now by this Application, the applicant, *in fact* is challenging the reasons given in the speaking order denying him the benefits which is a fresh cause of action.

3. In our considered view, OA No.4041/2023 was allowed and disposed of on the very first date based on the law laid down in the case of *Sub M.L Shrivastava(supra)* without notice to the respondents and without granting them any opportunity of being heard and once they have passed a speaking order, there is no provision for restoration of the execution application and proceeding with the OA on merits.

4. Now a fresh OA has to be filed by the applicant challenging the speaking order rejecting his claim on various grounds which are indicated in this restoration application.

5. Accordingly, finding the restoration application not maintainable, we dismiss it with liberty to the applicant to challenge the speaking order passed in pursuance to the Order passed by this Tribunal in OA No.4041/2023 afresh in accordance with law.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

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