

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

34.

MA 4021/2022 WITH MA 359/2024 IN OA 1657/2022

Nk Barmeshwar Dubey (Retd)	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Ravi Kumar, 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
16.02.2024

MA 4021/2022

This application has been filed in OA 1657/2022 which on the very first day of its hearing on 2nd August, 2022 was allowed and keeping in view the law laid down by the Full Bench of this Tribunal in the case of *Shama Kaur Vs. Union of India (OA 1238/2016)* decided on 01.10.2019, without notice to the respondents a short fall in service was directed to be condoned and pension granted.

2. Seeking execution of the aforesaid order, the applicant has filed the execution proceedings and pending execution proceedings the respondents have filed a PPO bearing No. 194202300106/0500 dated 25th January, 2023 and according to that the pensionary benefits have been granted to the applicant.

3. Now the applicant by filing an objections in the form of an additional affidavit compare his case with that of his co-worker and claim that he is getting less pension than his co-worker, therefore, his pension should be increased. He also claims re-fixation of pension.

4. As far as re-fixation of pension, in comparison to his co-worker, whose documents have been filed as Annexure A2 along with the additional affidavit, is concerned, it is a dispute giving a fresh cause of action to the applicant and such a dispute cannot be adjudicated in an execution proceedings. The applicant, if so advised, may challenge the action of the respondents in fixing and granting him less pension than his co- worker who was in DSC service along with him by invoking the jurisdiction under Section 14 of the Armed Forces Tribunal Act. Granting the aforesaid liberty to the applicant, MA stands disposed of.

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

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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