

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

1.

CA 4/2014 in OA 04/2014 (RB, Kolkata)

Lt. Col. Mukul Dev Applicant

VERSUS

Shri R.K. Mathur & Ors Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Wg Cdr TN Swamy with Cdr Rajat Gupta, OIC
Maj A.R. Subramanian, OIC, Legal Cell
Amicus Curiae : Mr. Rajshekhar Rao, Sr. Counsel (*Amicus Curiae*)
with Mr. Harshil Wasan and Mr. Dushyant Kishan
Kaul, Advocates
Mr. Navdeep Singh, Advocate (*Amicus Curiae*)
Interveners : Mr. D Solomon Pandian, President, AFT Chennai
Bar Association

WITH

2.

CA 7/2014 in OA 29/2014 (RB, Kolkata)

Lt. Col. Mukul Dev Applicant

VERSUS

Shri R.K. Mathur & Ors Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Wg Cdr TN Swamy with Cdr Rajat Gupta, OIC
Maj A.R. Subramanian, OIC, Legal Cell
Amicus Curiae : Mr. Rajshekhar Rao, Sr. Counsel (*Amicus Curiae*)
with Mr. Harshil Wasan and Mr. Dushyant Kishan
Kaul, Advocates
Mr. Navdeep Singh, Advocate (*Amicus Curiae*)
Interveners : Mr. D Solomon Pandian, President, AFT Chennai
Bar Association

WITH
3.

CA 1/2023 with MA 4861/2023 with MA 4862/2023 with CA 25/2023
in OA 408/2017 AFT RB Chandigarh)

Suo Moto AFT (RB) (Chandigarh) Applicant
VERSUS
Maj Gen Ashok Singh YSM SM
(ADGPS-4) IHQ of MOD Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Wg Cdr TN Swamy with Cdr Rajat Gupta, OIC
Maj A.R. Subramanian, OIC, Legal Cell
Amicus Curiae : Mr. Rajshekhar Rao, Sr. Counsel (*Amicus Curiae*)
with Mr. Harshil Wasan and Mr. Dushyant Kishan
Kaul, Advocates
Mr. Navdeep Singh, Advocate(*Amicus Curiae*)
Interveners : Mr. D Solomon Pandian, President, AFT Chennai
Bar Association

WITH
4.

CA 2/2023 with MA 4863/2023 with (CA 40/2023 in OA 408/2017 AFT
RB Chandigarh)

Suo Moto AFT (RB) (Chandigarh) Applicant
VERSUS
Mrs Alka Sharma(Principal Integrated
Financial Advisor Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Wg Cdr TN Swamy with Cdr Rajat Gupta, OIC
Maj A.R. Subramanian, OIC, Legal Cell
Amicus Curiae : Mr. Rajshekhar Rao, Sr. Counsel (*Amicus Curiae*)
with Mr. Harshil Wasan and Mr. Dushyant Kishan
Kaul, Advocates
Mr. Navdeep Singh, Advocate(*Amicus Curiae*)
Interveners : Mr. D Solomon Pandian, President, AFT Chennai
Bar Association

WITH
5.

OA 431/2024 with MA 497/2024(CA 04/2022 in OA 2740/2017
(RB Chandigarh)

Col Anup Prakash Singh Sidhu(Retd) Applicant
VERSUS
UOI & Ors Respondents

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC with
Mr. R.S. Chillar, Advocate
Wg Cdr TN Swamy with Cdr Rajat Gupta, OIC
Maj A.R. Subramanian, OIC, Legal Cell
Amicus Curiae : Mr. Rajshekhar Rao, Sr. Counsel (*Amicus Curiae*)
with Mr. Harshil Wasan and Mr. Dushyant Kishan
Kaul, Advocates
Mr. Navdeep Singh, Advocate(*Amicus Curiae*)
Interveners : Mr. D Solomon Pandian, President, AFT Chennai
Bar Association
Mr. Ajit Kakkar, Advocate, AFT(PB) Bar Association

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C. P MOHANTY, MEMBER (A)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
19.04.2024

1. The matters at Sr. nos. 1 to 4 are taken up in terms of orders dated 02.04.2024 and 05.04.2024.
2. However, as per the cause list OA 431/2024 is also listed before us at Sr. No. 5 and vide proceedings dated 29.09.2023 in AT 95/2023, the said matter has been transferred from the Hon'ble AFT(RB), Chandigarh Bench where it bore the no. OA 2740/2017.

3. Along with the same is CA 4/2022 and in view of the pendency of the CA 4/2022 it had been directed vide order dated 29.09.2023 by the Hon'ble the Chairperson, vide Para-9 and 10 thereof to the effect:-

“9. From the aforesaid, it is clear that the issue as to whether this Tribunal has powers to initiate contempt action under Section 19 for willful disobedience or non-implementation of an order passed by this Tribunal is subjudiced before the Larger Bench and judicial propriety requires that unless the Larger Bench decides the issue, contempt proceedings should be initiated only for the limited purpose as is available under sub-Section (1) of Section 19 and nothing more.

10. Keeping in view the aforesaid, that apart, once the issue is pending before a Larger Bench, it would be in the fitness of things that this application is also transferred and heard along with CA 4/2014 by the Larger Bench.”

4. Though as per the cause list, Mr. Navdeep Singh, Advocate (Amicus Curiae) is indicated to be the counsel in the matter, as fairly submitted by the learned counsel he has since been designated as the *Amicus Curiae* in the matters at Sr. Nos 1 to 4. As Mr. Rajesh Jain, the learned counsel who has put in appearance on 29.09.2023 in AT 95/2023 in CA 4/2022 in OA 740/2017 of the AFT(RB), Chandigarh is not present and the Learned counsel Mr. Rajiv Manglik, in CA 4/2014 and CA 7/2014 submits that the Mr. Rajesh Jain was appearing only in the AT 95/2023 as informed by him, in the circumstances, in as much as vide order 29.09.2023, the proceedings of CA 4/2022 have been directed to be taken up along with

the hearing in CA 4/2014, it is essential that the applicant of CA 4/2022 is also represented. In the circumstances Court notice is directed to be issued to the applicant of CA 4/2022 to put in appearance.

5. Furthermore, the physical records of CA 4/2022 are directed to be requisitioned by the Registry for the next date of hearing. The Registry shall put up the records of OA 431/2024 also on the next date and it is essential that the Court notice be issued which be sent via e-mail by the Registry forthwith to the applicant in CA 4/2022 for today. To come up at 2:55 p.m.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN C P MOHANTY)
MEMBER (A)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

AP/TS

AT 02:55 pm

1. The matter is taken up again in view of the applicant of CA 4/2022 having been sent an e-mail of the Court notice which has been received and the applicant on CA 4/2022 has sent the mail to this Tribunal indicating that he has nominated Mr. Rajesh Nandal, Advocate to appear on his behalf. Mr. Rajesh Nandal, Advocate is present before us.

2. In view of the order dated 23.01.2015 in CA 4/2014 in MA 42/2015 having been allowed, the AFT PB Bar Association is permitted to make submissions in the matter.

3. Part submissions have been addressed on behalf of the applicant in CA 4/2014 and CA 7 /2014. Intervention suggestions have been received from the President, AFT, Chennai Bar Association and from learned counsel Mr. Prashant Trivedi.

4. The matter is directed to be re-notified for hearing now on 29.04.2024, 01.05.2024 and 03.05.2024 at 02:15 pm.

5. During the course of submissions addressed on behalf of the applicant in CA 4/2014 and CA 7/2014, reliance was placed on the verdict of the Hon'ble High Court of Kerala in **Shihabudeen v. Principal Controller of Defence Accounts(Pensions) (2011 (1) KLT 683)** with inter alia reliance placed on behalf of the said applicants on the order dated

16.04.2014 of the Hon'ble Central Administrative Tribunal(PB) in OA 855/2001 with OA 1950/2002, OA 2770/2002, OA 2894/2002, OA 38/2003, OA 634/2003 and OA 686/2003 with specific reliance placed on observations in Para 17 of the said order which read to the effect:-

“17. Consequently, we hold:-

1. that if there is a judgement of the High Court on the point having territorial jurisdiction over Tribunal, it would be binding:

2. that if there is no decision of the High Court having territorial Jurisdiction on the point involved but there is a decision of the High Court anywhere in India, this Tribunal would be bound by the decision of that High Court:

3. that if there are conflicting decisions of the High Courts including the High Court having the Jurisdiction, the decision of the Larger Bench would be binding: and

4. that if there are conflicting decisions of the High Courts including the one having territorial jurisdiction then following the ratio of the judgement in the case of Indian Petrochemicals Corporation Limited (supra), this Tribunal would be free to take its own view to accept the ruling of either of the High Courts rather than expressing third point of view.”

with specific emphasis having been placed on para 17 (2) of the said order of the Hon'ble CAT, PB, New Delhi.

6. In the interest of justice, we consider it essential that the Registry collects the information in relation to the specific pendency of execution

petitions pending before the Hon'ble AFT Kochi Bench and the details of the said execution applications wherein the executions have been effected for the next date of hearing i.e. **29.04.2024** at 02:15 pm through the 'Hybrid Mode'.

Copy of this order be given ***DASTI***.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN C P MOHANTY)
MEMBER (A)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

AP/TS