

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

9.

MA 940/2024 in OA 1944/2021

Col Rajeev Sood (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. V Pattabhi Ram, Advocate
Maj A.R. Subramaniam, OIC Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER
16.05.2024

The applicant vide present MA 940/2024 instituted on 04.03.2024 seeks impletion of the order dated 30.05.2023 in OA 1944/2021 whereby vide para 9 thereof it was directed to the effect:-

“9. In the light of the above consideration, the OA is allowed. We find that the applicant is entitled to the relief as under and we, therefore, direct the respondents to:

- (a) Review the pay fixed of the applicant on promotion to the rank of Lt Col in Dec 2004 under the 5th CPC and after due verification re-fix his pay in a manner that is most beneficial to the applicant.*
- (b) Re-fix the applicant's pay on transition into 6th CPC and subsequent promotion with the most beneficial option, while ensuring that the applicant does not draw less pay than his junior.*
- (c) Re-fix the applicant's pay on transition into 7th CPC and retirement accordingly.*
- (d) Issue fresh PPO and pay the arrears within three months from the date of this Order and submit a compliance report”*

The records of the OA 1944/2021 indicate that there has been no prayer made by the respondents seeking leave to appeal against the said order of which implementation has been sought within the stipulated period of time in terms of section 31 of the AFT, Act 2007.

Vide order dated 06.03.2024 in the present application the respondents had been granted six weeks time to file the compliance report, which has till date not been filed.

A submission is now made on behalf of the respondents seeking deferment of the proceedings in the present MA submitting to the effect that WP (C) 5477/2024 before the Hon'ble High Court of Delhi has been filed by the respondents in a similar matter which is opposed on behalf of the applicant.

It is essential to observe that the reliance is placed on behalf of the respondents on the order dated 01.05.2024 in WP (C) 5477/2024 whereby vide para 3 thereof it was directed to the effect:-

“There is no denial to the fact and also contended by the learned counsel for the respondent that three judgments of which reference has been made by the learned Tribunal on similar issue have been implemented by the petitioners. Learned counsel for the respondent also submits that even leave to appeal sought by the petitioners under Section 31 of the AFT Act has already been rejected. Hence, it is not known why the present petition has been filed by the petitioners challenging the impugned order dated 24.08.2022.”

and it is indicated therefrom that there was no notice also of the said writ petition issued. In the circumstances, in view of the said observations the prayer made on behalf of the respondents seeking deferment of the proceedings till disposal of WP (C) 5477/2024 cannot presently granted.

In the event of there being no stay order of the operation of the order dated 30.05.2023 in OA 1944/2021 being placed on the record by the respondents for the next date of hearing, the affidavit of compliance of the said directions be placed on record by the respondents with the demand draft for payment of costs of a sum of Rs. 50,000/- in the name of the applicant.

Re-list the matter on **06.08.2024**.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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