

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

6.

MA 3735/2023 in OA 959/2020

Ex Sep/DSC Rajendra Singh Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. US Maurya, Advocate
For Respondents : Mr. K K Tyagi Sr CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
07.10.2024

MA 3735/2023

Vide order passed on 22nd August, 2024 in this execution application we had issued notice of contempt to the original respondents in OA 959/2020. Office report indicates that notice was issued to the respondents on 6th September, 2024. The notices were issued to the Defence Secretary, Chief of Army Staff, Officer-in-charge, Records DSC and Officer-in-charge, 861 DSC Pl, DRDO MoD. Notices have been served on all the four respondents as indicated in the service report and delivered to all concerned. When the matter is taken up today, in pursuance to the order passed, respondents submit that a writ petition will be filed before the Hon'ble Delhi High Court today and therefore they seek more time. The matter was taken up on 03.10.2024 and the following directions were issued on the said date:-

“In pursuance to the orders passed by this Tribunal on 20.08.2024, Mr. K. K. Tyagi, learned Sr. CGSC for the respondents has produced before us an affidavit prepared by the Officer In charge Defence Services Corp Record, Kannur, Kerala indicating the process initiated after the orders were passed on 03.05.2023 in OA 959/20202 and action taken in the matter up to 07.08.2024 is detailed in the affidavit. We direct learned Sr. CGSC to file the affidavit during the course of the day.

2. List the MA for orders on 07.10.2024.”

2. Today when the matter is taken up, the affidavit filed by Officer-in-charge, Defence Services Corps, Record, Kannur, Kerala was perused by us and we find that he has expressed his inability to take any action in the matter as the higher authorities have not given approval for implementation of the order. We find that the respondents in more than 6500 cases pending before the Armed Forces Tribunal, Principal Bench, New Delhi and 10 other Regional Benches are not implementing the order passed by this Tribunal. In spite of repeated opportunities having been granted neither the orders are being implemented nor any writ petition or SLP filed before the Hon’ble Delhi High Court or Hon’ble Supreme Court within time, nor any stay obtained on the orders passed by the AFT. It may also be noticed that in cases where writ petition has been filed and notice issued without granting any stay, this Tribunal has taken a liberal attitude and granted time to the respondents till the dismissal of the said appeal/petition. In spite

of time being granted and the liberal process followed, the respondents are sleeping over the matter, are not implementing the orders of this Tribunal and therefore it is high time that we take stringent action in these matters.

3. Accordingly, we direct the Defence Secretary and the Chief of the Army Staff to show cause as to why the orders passed have not been implemented. We are compelled to pass this order against the two officers/authorities because time and again orders passed by this Tribunal are not being implemented and benefits are not granted to the applicant even when the case was decided more than a year or two back. We are informed that even after contempt proceedings having been initiated, orders are not implemented and, therefore this Court cannot take a lenient view of the matter. Accordingly, we direct that the Defence Secretary and the Chief of the Army Staff shall personally appear before this Tribunal on 21st October, 2024 at 10.30. A.M. This matter be taken up as case No. 1 on the said date.

4. Respondents brought before us today an affidavit filed which indicates that the respondents are proposing to file a writ petition before the Hon'ble Delhi High Court. We are not convinced with the same as the order in the OA was passed more than one and a half year back and the same has not been implemented. Merely filing a writ bearing Diary No. 4367339/2024 is not the way to get away from the clutches

of contempt as the order in question was passed more than a year and a half back. The time given for implementing the order has also been over more than a year back.

5. A copy of this order passed today be sent by the Joint Registrar(J) to the Defence Secretary and the Chief of Army Staff. A personal staff from this Court should go and deliver this order at their office. We are constrained to take the coercive action to bring this to the notice of the highest officer with regard to execution proceedings pending in this Tribunal and the reasons which compelled this Tribunal to pass such an order for appearance of the Highest Authority.

6. List the matter on 21st October, 2024 at 10.30. A. M.

7. Let a copy of this order be provided *DASTI* to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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