

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

50.

OA 1047/2015 with MA 1006/2015

Ex Hav Babu Ram

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Mr. J P Sharma, Advocate

For Respondents : Mr. Anil Gautam, Sr. CGSC with
Capt Abhishek Kumar, OIC Legal

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

22.10.2024

Submissions have been partly addressed on behalf of either side. *Inter alia* the respondents have adverted to observations in Para 5 of the order of the Hon'ble High Court of Delhi dated 20.11.2008 in WP(C) 5496/2007 and several other connected matters wherein it has been directed to the effect :-

“5. We have heard the counsel for the parties for purposes of concluding as to what directions are required to be passed in the present petitions. The following directions are accordingly issued: i) The order passed by the Chief of Army Staff dated 12.04.2007 directing discharge of all the personnel in Low Medical Category without holding the IMB is quashed. ii) The petitioners who stand discharged as a consequence of the aforesaid order are entitled to be reinstated with all consequential benefits including continuity of service, pay and allowances and seniority as per the rules. iii) The petitioners would report to their respective Regimental Centre from where they have been discharged within a period of 30 days from today for joining. The pay and allowances and other benefits to such of the

petitioners who have not been paid the pension and retiral benefits including by AGIF arising from the discharge order will be remitted within a maximum period of three months from today. Naturally, this would be applicable only to such of the petitioners who join within the aforesaid time. iv) There are certain petitioners who have been paid pension, retiral benefits and amount by AGIF and if they seek to re-join naturally they have to refund the amount. However, they are also entitled to be paid the pay and allowances. Thus only the net amount has to be refunded by them. The respondents will inform such persons about the net amount which has to be refunded back by them and the amount be remitted by such persons within 30 days of intimation of the amount to be remitted back by them. v) In respect of aforesaid direction (iv), if the balance amount is not remitted back to the respondents, it will be deemed that such petitioners have accepted their discharge. vi) In case of the petitioners who have not been discharged, naturally the occasion to discharge them now would not arise without holding the IMB. vii) The respondents are not precluded from holding the IMBs after such joining in accordance with law as per the Army Act, 1950, The Army Rules, 1954 and Army Instructions. viii) In view of the passage of time from the date of discharge till the date of rejoining, it will be open to the respondents to carry out any police verification as may be deemed appropriate by the respondents.”

2. In terms of directions dated 11.10.2023, the respondents on 12.12.2023 have submitted documents inclusive of the “Option Letter To Rejoin Service” dated 29.12.2008, of which Para 2 of the same reads to the effect :-

“(a) An amount of Rs 520328- (Rupees Five Lakh Twenty thousand three hundred twenty eight only) on account of refund of all terminal benefits (less AFIF benefits) be deposited in the nearest Government Treasury/Bank through Military Receivable Order (In

lieu of IAFA-507) (MRO) in the Budget Head of Principal CDA (Pensions) Allahabad.

(b) An amount of Rs. 93237/- through two separate bank drafts drawn in favour of AFIF, New Delhi on account of refund of disability (Rs...) and maturity (Rs 93237/-) received from Army Group Insurance Fund.

(c) Amount on account of leave encashment and AFPP Fund paid at the time of final settlement of account, this amount will be deposited after adjusting you pay and alices upto Dec 2008.

(d) Amount on account of service pension and disability pension paid to you from the date of discharge to till date is also be deposited.”

3. In terms of the directions in Para 5 (iv) and (v) of the orders of the Hon'ble High Court of Delhi dated 20.11.2008 in WP(C) 5496/2007 and several other connected matters, the respondents are directed to specify vide an affidavit the breakup of the amount of the terminal benefits that have been paid to the applicant as well as the amount of the AGIF benefits paid within a period of four weeks.

4. The matter be re-notified for hearing as part heard on 10.12.2024.

5. Copy of this order be given *DASTI* as prayed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(MS. RASIKA CHAUBE)
MEMBER (A)