

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

65.

MA 4385/2023 in OA 1469/2021

Sgt Mukesh Kumar Retd	Applicant
Versus		
Union of India & Ors.	Respondents
For Applicant	:	Mr. A K Chaudhary, Advocate
For Respondents	:	Mr. Prabodh Kumar Sr CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

O R D E R
20.11.2024

MA 4385/2023

Seeking compliance of an order passed in the matter of grant of disability to the applicant more than a year back on 30th January, 2023, this application has been filed for execution. The execution proceedings are pending since 16th October, 2023 and even when more than a year has passed and about eight opportunities were granted to the respondents to file the compliance affidavit, the respondents have not complied with the order and when the matter came up on 03.10.2024, contempt notice was issued to the respondents on basis of law laid down by the Full Bench of this Tribunal in the case of *Lt. Col Mukul Dev Vs Shri*

R.K.Mathur & Ors. (CA 4/2014 in OA 04/2014 decided on 31.07.2024).

2. Today when the matter is taken up for hearing, learned counsel for the respondents submits that a writ petition bearing No. Dy No. 5367279/2024 has been filed before the Hon'ble Delhi High Court. The application is yet to be registered, consequent to which it shall be taken up for hearing and thereafter admitted or orders passed on the question of stay. In somewhat similar situation when such cases were taken up and personal appearance of Defence Secretary and Chief of Army Staff was called in the contempt proceedings, the matter was taken up by the Hon'ble Delhi High Court in the case of *Union of India and Ors.* Vs. *Ex Sep/DSC Rajendra Singh* (WP (C) 14359/2024 and CM. Appeal 60519/2024) on 15.10.2024. Hon'ble Delhi High Court directed that subject to decision that may be taken by the Hon'ble Delhi High Court in the pending writ petition, the respondents should comply with the order passed by the Armed Forces Tribunal after taking an undertaking from the applicant by way of an affidavit that in case the petition is allowed and the order passed by the Armed Forces Tribunal is set aside he shall refund all the amount. It was also noted that

the benefits granted to him shall be subject to final decision of the Hon'ble Delhi High Court in the pending writ petition.

3. Respondents to comply with the orders within six weeks after taking appropriate undertaking and affidavit of the applicant in the matter of refund of the amount in case any adverse order is passed against the applicant.

4. List again on 15th January, 2025.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

**Priya
MA 4385/2023**