

**COURT No.3, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**3.**  
**OA 1187/2018**

**Gp Capt A K Ahlawat**  
**Versus**  
**Union of India & Ors**

**..... Applicant**  
**..... Respondents**

**For Applicant** :Mr. Ankur Chhibber, Advocate  
**For the Respondents:** :Ms. Barkha Babbar, Advocate

**CORAM:**  
**HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)**  
**HON'BLE VICE ADMIRAL P. MURUGESAN, MEMBER (A)**

**O R D E R**  
**16.07.2018**

Present OA has been filed by the applicant seeking quashing of PPO dated 01.05.2018 whereby the applicant has been shown as Wg. Cdr. instead of Gp. Capt. and directing the respondents to issue fresh PPO by showing him a Gp. Capt. thereby refixing his pension and other consequential benefits.

2. Learned counsel for the applicant submits that the applicant was commissioned as Fighter Pilot in Indian Air Force on 21.12.1996. He was promoted to the rank of Gp. Capt. by signal dated 18.11.2016 w.e.f. 21.11.2016. Subsequently, signal dated 17.03.2017 was issued granting acting rank of Gp. Capt. to the applicant. Since the signals dated 18.11.2016 and 17.03.2017 were contrary to the order dated 01.05.2009 issued by MoD, Government of India, he submitted representation on 08.06.2017. Since no reply was received, he submitted second representation on 07.09.2017. The applicant took premature retirement

from service on 31.10.2017. In the retirement order dated 29.08.2017, he was shown as Gp. Capt. He was also made to work in an appointment as Gp. Capt. and accordingly paid the salary of Gp. Capt. till the date of retirement. Vide reply dated 09.02.2018, the applicant was informed that his case for grant of substantive rank was being processed in consultation with the office of JCDA (AF). Thereafter, respondents issued signal dated 07.02.2018 informing that the applicant had been granted substantive rank of Gp. Capt. w.e.f. 01.01.2017. Since the applicant retired on 31.10.2017 but no PPO was issued to him, hence he made representation dated 31.02.2018. On 01.05.2018 respondents have issued PPO showing the applicant as Wg. Cdr. ignoring the promotion granted to the him to the rank of Gp. Capt. In addition, the respondents have issued a recovery certificate against the applicant for a sum of Rs.64,685/-, paid to him as Gp. Capt.

3. Learned counsel for the applicant submitted that the action of the respondents in treating the applicant as Wg. Cdr. Instead of Gp. Capt. for grant of pension and initiating monetary recovery from him is illegal and liable to be set aside. As such, by way of this OA, the applicant, besides seeking quashing of the PPO dated 01.05.2018, also seeks quashing of recovery letter dated 31.10.2017 by way of interim relief, it is submitted that the recovery be not made during the pendency of this OA.

4. Heard

5. Issue notice.

6. Notice is accepted by Ms. Barkha Babbar, learned counsel for the respondents 1-3 and 5-6, who seeks time to file reply. Issue notice to

Respondents Nos.4-5 on necessary steps to be taken by applicant within one week.

7. In view of averments made by learned counsel for the applicant, the applicant has a prima facie case. Balance of convenience also lies in his favour and he will suffer loss in case the recovery is effected pursuant to letter dated 31.10.2017 till the adjudication of the case on merits. As such, till the next date of hearing, recovery order vide letter dated 31.10.2017 is stayed.

8. Let reply be filed by respondents Nos. 1-3 and 5-6 within six weeks' with an advance copy to the applicant, who may file rejoinder, if any, within four weeks' thereafter.

9. Relist on **04.10.2018**.

10. A copy of this order be given 'DASTI'.

**(JUSTICE SUNITA GUPTA)**  
**MEMBER (J)**

**(VICE ADMIRAL P. MURUGESAN)**  
**MEMBER (A)**