

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

14.

MA 609/2024 in OA 1047/2020

Col Shamsul Siddiqui Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. S S Pandey, Advocate
For Respondents : Mr. Ankush Kapoor, proxy for
Mr. K K Tyagi Sr CGSC, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
17.05.2024

The applicant vide the present MA 609/2024 instituted on 08.02.2024 has sought compliance of directions dated 11.04.2023 in OA 1047/2020 whereby vide paragraph 10 thereof it was directed to the effect:-

“10. 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 arrears within three months of this order and submit a compliance report.”

2. A submission is now made on behalf of the respondents by placing on record a copy of order dated 01.05.2024 in Writ Petition (C) 5477/2024 to submit to the effect that in OA 2857/2023 vide order dated 24.08.2022 vide para 15 thereof, it had been directed to the effect:-

“15. In the light of the above consideration, we find that the applicant prima facie has a case and the balance of convenience too is in his favour. We, therefore, allow the OA and 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 with the most beneficial option, while ensuring that the applicants do not draw less pay than their junior.

(c) Re-fix the applicant's pay on transition to 7th CPC and and subsequent promotions and retirement accordingly.

(d) All pending similar cases pertaining to pay fixation on promotion in 5th CPC with the most beneficial option be similarly reviewed and pay refixed.

(e) Pay the arrears within three months of this order and submit a compliance report.

and it is thus submitted on behalf of the respondents that vide order dated 11.04.2023 in OA 1047/2020 vide Para 10 reproduced hereinabove there were similar directions.

3. A prayer for deferment of proceedings beyond the date 29.05.2024 in Writ Petition (C) 5477/2024 is made on behalf of the respondents.

4. A bare perusal of the paragraph 3 of order dated 01.05.2023 in Writ Petition (C) 5477/2024 copy of which order

has been submitted on behalf of the respondents on the record reads to the effect:-

“3. 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,”

indicating that there is no notice even issued of the said writ petition. In the event of there being no stay order of the operation of the order dated 11.04.2023 in OA 1047/2020 being placed on the record by the respondents, for the next date of hearing the respondents shall place on record the affidavit of compliance of the said directions along with a demand draft for payment of costs of a sum of Rs. 50,000/- in the name of the applicant.

5. The matter be re-notified for hearing on **04.10.2024**.

The copy of this order be given ***DASTI***, as prayed.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**

