

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

5.

MA 789/2024 in OA 2096/2021

Col Digvijay Singh ..... Applicant  
VERSUS  
Union of India and Ors. .... Respondents

For Applicant : Mr. S S Pandey, Advocate with  
Ms. Ayushi Mishra, Advocate  
For Respondents : Mr. Arvind Kumar, Advocate

CORAM

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

ORDER  
15.05.2024

On behalf of the respondents has been submitted a copy of order dated 01.05.2024 in WP (C) 5477/2024 before the Hon'ble High Court of Delhi which is in relation to OA 2857/2021 qua order dated 24.08.2022 of the Tribunal whereby vide Para 15 thereof it was 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 applicants' pay on transition into 6th CPC with the most beneficial option, while ensuring that the applicants do not draw less pay than their juniors.*

*(c) Re-fix the applicants' pay on transition to 7th CPC and subsequent promotion 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 re-fixed.*

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

It is submitted on behalf of the respondents that vide order dated 30.05.2023 in OA 2096/2021 qua which the applicant has filed the present MA 789/2024 seeking implementation thereof, the directions therein vide para 9 thereof it was directed to the effect:-

*“9. 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 7<sup>th</sup> CPC and retirement accordingly.*

*(d) Issue corrigendum PPO to the applicant and pay the arrears within three months of the date of this order.”*

Thus, a prayer seeking deferment of the present proceedings till disposal of WP (C) 5477 / 2024 is made on behalf of the respondents.

It is essential to observe that vide para 3 of the order dated 01.05.2024 in WP (C) 5477 / 2024 as relied upon on behalf of the respondents, it has been observed 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 thereby that no notice of the said Writ Petition was even issued by the Hon’ble High Court of Delhi.

In view thereof, in the event of there being no stay order of the operation of dated 30.05.2023 in OA 2096/2021, of the directions for the next date of hearing, the affidavit of compliance for the said directions dated 30.05.2023 in OA 2096/2021 be placed on the record by the respondents for the next date of hearing with the demand draft of a sum of Rs. 50,000/- in the name of the applicant towards payment of costs.

Re- list the matter on **04.09.2024**.

Copy of the order be given **DASTI** as prayed.

The prayer made on behalf of the respondents seeking reduction of the costs imposed hereinabove is declined.

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

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