

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

26.

OA 2911/2023 with MA 4048/2023

Sgt Mantosh Kumar Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : None
For Respondents : Mr. K K Tyagi, Sr CGSC for R1 & R4

CORAM

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

ORDER
28.08.2024

No rejoinder has been filed on behalf of the applicant to the counter affidavit filed by the respondent nos. 1 and 4, which be filed within a period of two weeks, since respondent nos. 5 and 6 were proceeded *ex-parte* vide order dated 17.05.2024.

2. On behalf of the respondent nos. 1 and 4 it has been submitted that in terms of impugned order dated 06.11.2018 in terms of para 5 (a) thereof for the grant of the maintenance to respondent no. 5 the wife of the applicant, has since been stopped in as much as the said amount had been awarded only for a period of five years of the order dated 06.11.2018.

3. It is also however submitted on behalf of the respondent nos. 1 and 4 that the payment of maintenance to the son of the applicant is however continuing in terms of para 5 (b) of the said order dated 06.11.2018.

4. The said impugned order dated 06.11.2018 reads to the effect:-

*“5. NOW THEREFORE, after considering the entire case and in exercise of power vested in me under section 92 (i) of Air Force Act, 1950 read with Rule 162 of the Air Force Rules, 1969, I hereby order that Rs. 18,300/- be paid every month from the pay and allowances of 779879-B Sgt Mantosh Kumar AF Fit of 1 Wg with effect from **Nov 2018** payable on last working day of each month to Smt Suman Kumari as maintenance allowance to his wife and the son of the couple in the following manner:-*

- (a) Rs. 10,000/- pm to Smt Suman Kumari for a period of five years at a time or till reunion or divorce or grant of maintenance allowance by civil court or discharge/ retirement of the individual subject to the AF Act, 1950, or material change in facts and circumstances, whichever is earlier.*
- (b) Rs. 8,300/- pm to his Son till he attains the age of 25 years or gets employment or remains out of custody of father or is granted maintenance allowance by civil court or discharge/retirement of the individual subject to the AF Act, 1950 or material change in facts and circumstances, whichever is earlier.”*

4. Counsel for the applicant seeks time to seek instructions in relation thereto.

5. Re-list the matter on **04.10.2024**.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

AP