

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

34.

OA 940/2019 with MA 1832/2023 & 1833/2023

Hav Nepal Chhatria Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Virender Singh Kadian, Advocate

For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE LT GEN P.M. HARIZ, MEMBER (A)

ORDER

25.04.2024

Pursuant to directions dated 03.09.2019, 08.09.2021 and 15.03.2023 on the record, the respondents vide MA 1832/2023 dated 19.04.2023 filed on 24.04.2023, submitted additional documents which are taken on record. The MA 1832/2023 is thus disposed of accordingly.

Vide annexure R-1 dated 02.04.2023 to the same vide paras-2,3,4 and 5 thereof it is stated by the respondents therein to the effect:-

"2. It is submitted that as directed by IHQ of MoD (Army) DGMI (MI-20) this office obtained legal opinion from HQ Southern Comd (JAG) Accordingly HQ Southern Comd (JAG) vide their letter mentioned at Para 1 (c) above advised that "the indl is bound to file reply to the Show Cause Notice within 30 days of its receipt. However, discharge of the indi cannot be stopped and he will be SOS on 30 Jun 2019. Future course of action will be subject to the outcome of hearing of the OA scheduled on 16 Jul 2019"

3. *Thereafter, based on the Hon'ble AFT (PB) New Delhi order dated 07 Nov 2019 this office again sought legal opinion from HQ Southern Comd (JAG) vide our letter mentioned at Para 1 (e) In reply HQ Southern Comd (JAG) Branch vide their sig mentioned at Para 1 (g) advised present status as on dt to be maintained"*

4. *Based on the legal opinions terminal benefits were not released so far. However, now the action has been initiated by this office to release fwg pensionary benefits as early as possible to the applicant:-*

| <i>Ser.</i> | <i>Type of Entitlement</i> | <i>Amount</i> | <i>Remarks</i> |
|--------------------------|---|-----------------------|---|
| <i>(a)</i> | <i>Maturity benfits of Army Group Insuracne Fund</i> | <i>Rs 5,01,667/-</i> | <i>Amount will be credited into indl's bank account</i> |
| <i>(b)</i> | <i>Final Settlement of Account including Leave accumulation</i> | <i>Rs 5,27,622/-</i> | |
| <i>(c)</i> | <i>AFPP Fund</i> | <i>Rs 5,06,397/-</i> | |
| <i>Total Entitlement</i> | | <i>Rs 15,35,686/-</i> | |

5. *Case for Servie Pension and Gratuity will be re-processed on receipt of final verdict from Hon'ble AFT(PB) New Delhi."*

Apparently, through the letter dated 02.04.2023 the respondents have submitted on record to the averments made in para-3 thereof, it is implicit that no action has been taken on the show cause notice that has been issued to the applicant, in the circumstances, we consider it appropriate to hear the OA.

Part submissions have been addressed on behalf of the applicant.

During the course of submissions made on behalf of the applicant, it is sought to be submitted as averred in para-5.2 of the OA that there is a civil dispute pending consideration before the Civil Court which relates *inter alia* to the aspect of the plural marriage between the applicant and Ms. Manasmita Nag with the

applicant herein having stated allegedly before the Civil Court that Ms. Manasmita Nag is not his legally wedded wife and therefore she is not entitled for any maintenance. .

On behalf of the applicant reliance is also placed on Annexure A-6 to the OA which is the copy of a process issued in CMC no. 10/2017 dated 20.06.2017 as issued from the Court of the learned J.M.F.C at Saintala, with it having been submitted further on behalf of the applicant that the notice that was issued to the applicant by the said learned Court indicates that was issued to him in a capacity as an employee (HAV) 2011 bearing no. 3759787F submitting to the effect that the respondents are well aware therefrom of the pendency of the said civil proceedings. Counter affidavit that the respondents have placed on the record filed on 10.10.2019 vide preliminary submissions II(C) indicated thus that the respondents are aware of the pendency of such civil case. In as much as learned counsel for the applicant submits that the said civil case is still pending, the certified copy of the order sheet of the learned court of the J.M.F.C at Saintala showing the next date of proceedings be placed on record by the applicant within a period of three weeks.

Inter alia on behalf of the applicant it is submitted in view of the order dated 03.09.2019 whereby it was directed to the effect:-

“ It has been brought to our notice by Mr. Kadian, learned counsel for the applicant that the applicant has already responded to the Show Cause

Notice. However, learned counsel for the respondents seeks two weeks, time to file reply to the instant OA stating that in case any order is passed on the Show Cause served upon the applicant after receipt of the reply, the same shall also be placed on record. Time granted. Rejoinder, if any, be filed within two weeks thereafter.

List again on 22nd October, 2019.

Interim directions to continue.”

It is submitted on behalf of the applicant that the reply to the Show cause notice dated 27.05.2019 was submitted by the applicant dated 29.06.2019 as received by the respondents on 29.06.2019 at 11:05 hrs. for signature on the record.

Re-list the matter on **11.07.2024** as Part Heard.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN P.M. HARIZ)
MEMBER (A)

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