

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

28.

MA 2908/2024 in OA 99/2022

Nk Balbir Singh Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Rajesh Nandal, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
29.01.2025

MA 2908/2024

This application has been filed seeking execution of an order passed by this Tribunal in OA 99/2022 on 18th October, 2023. The applicant in the application sought promotion to the rank of Hav and after examining the matter in detail, it was found by this Tribunal that the legitimate claim of the applicant was not considered and therefore, the decision of the Board superseding the applicant was set aside and it was directed that the applicant shall be promoted to the post of Hav with effect from 01.09.2017 with restoration of its original seniority.

2. After passing this order on 18.10.2023 and when the three months period granted for implementation of the order had lapsed, applicant on 18th July, 2024 invoked the jurisdiction of this Tribunal by filing an execution application. Respondents

were granted time to implement the order and in spite of repeated opportunities granted on more than eight occasions, the respondents did not comply with the order. Thereafter on 6th December, 2024, we had issued notice to the respondents to comply with the order failing which contempt action would be taken against them.

3. Now respondents have filed an affidavit indicating the action taken by them and after going through the affidavit filed, we find that except for corresponding between various departments, it was only on 03.01.2025 a proposal is made for taking opinion of the LA (Defence) to file writ petition in the Hon'ble Delhi High Court and now action is being taken for filing of the writ petition. Consequence of the delay by the respondents is that the applicant is not granted promotion and now as he is attaining the age of superannuation on the post in question held by him, he is retiring on 28.02.2025 and in case the order passed by this Tribunal is implemented the applicant will get two more years of service on the promoted post of Hav.

4. Considering the manner in which the respondents have acted in the matter, we direct that the applicant shall not be superannuated and is permitted to continue in service even after 28.02.2025 till either the order passed by this Tribunal is implemented or the appropriate orders passed by the Hon'ble Delhi High Court in the Writ petition be filed by the respondents.

5. That apart, we may take note of the affidavit filed by the respondents, particularly, the averments made in the Para 7 and 8 which reads as under:-

“7. IHQ of MoD (Army)/Inf-9 vide letter No C/102956/MAHAR/Inf-9 dated 03 Jan 2025 has now intimated that the case file has been submitted to Director, MoD/D (AG-1) for taking opinion of LA (Def) for filing of Writ Petition in the Hon’ble High Court.

8. It is humbly submitted that the delay is neither willful nor intentional. It is however due to the detailed procedure to be followed for perusal of the case at different levels. It is assured that there is no intent of Respondents to go against that orders of Hon’ble Court which are deeply honored. There is always an earnest and sincere effort to ensure the implementation of orders within stipulated time frame.”

The averments made in the affidavit itself seem to be contrary to each other. In view of these circumstances we are constrained to pass the aforesaid order.

6. List again on 5th May, 2025.

7. Let a copy of this order be provided *DASTI* to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[RASIKA CHAUBE]
MEMBER (A)