

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

49.

MA 5473/2024 in OA 1307/2017

Col Alok Singh EME (In the Matter of
Lt Col Kinsuk Dutta (Retd) & Ors) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Mohd Amanullah, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

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

ORDER
19.12.2024

MA 5473/2024 has been filed by the applicant seeking the following prayers:-

- (a) *Direct the respondents to grant payment of Component of Interest@ 10% p.a to applicant from the date he was posted in till the time he was posted out and for the belated payment interest @ 12% p.a. from the date of order dated 12.10.2017 of this Hon'ble Tribunal passed in OA No. 1307 of 2017 till the time of payment made to applicant in light of order passed in "Brig A.K. Bhutani & Ors. Vs. UOI &Ors."*
- (b) *Call for status report from the respondents in terms of directions issued by the Hon'ble Tribunal vide dated 12.10.2017 in OA No. 1307/2017.*
- (c) *Pass such further order or orders as this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.*

2. Whilst accepting notice on behalf of the respondents, counsel for the respondents submits that the copies of the pagination are not in accordance with the submissions that have been made by counsel for the applicant. In view thereof, a

complete set of MA 5473/2024 with the pagination as submitted to this Tribunal be submitted by the counsel for the applicant to the counsel for the respondents. The response thereto be filed by the respondents before the next date of hearing.

3. During the course of submissions, on behalf of the applicant it has been submitted to the effect that the applicant has not been treated on parity with the other applicants of OA 1307/2017 which was disposed of vide order dated 12.10.2017 for whereas the applicant Lt Col Kinsuk Datta and the applicant Maj. Khanna Viraj Vijay arrayed as applicant Nos. 1 and 4 to OA 1307/2017 were granted the special compensatory counter insurgency allowance with interest, the applicant of the present MA Col Alok Singh arrayed as applicant No. 3 to OA 1307/2017 has also been granted the special compensatory counter insurgency allowance without any interest.

4. The attention of the learned counsel for the applicant is drawn to the proceedings dated 12.10.2017 in OA 1307/2017 whereby vide para-2 thereof, it was directed to the effect:-

“2. The petition is, accordingly disposed of with direction to respondents to grant Special Compensatory (Counter Insurgency) Allowance to the applicants for their deployment in the counter insurgency areas for the period for which they were deployed there subject to verification of facts. This is to be done within a period of two months from today.”

with there being no mention of the grant of any interest. In relation to the said aspect, counsel for the applicant has placed

reliance on the observations in para-1 of the order dated 12.10.2017 in OA 1307/2017 which read to the effect:-

“In the instant application, the applicants seek Special Compensatory (Counter Insurgency) Allowance. It is stated by the learned counsel for the applicants that it is a covered matter with the earlier pronouncements of the Tribunal in similar matters. She has relied upon the order passed by a Coordinate Bench of this Tribunal in OA No. 104/2015 wherein identical facts were there. The applicants therein were granted Special Compensatory (Counter Insurgency) Allowance for their deployment for Border Organization in highly volatile insurgency areas of the North-East. Learned counsel for the applicants submits that the applicants were deployed in counter insurgency area and they are entitled to Special Compensatory (Counter Insurgency) Allowance for the period they have served in that area. These facts need to be ascertained by the respondents and upon verification of facts, the applicants can be granted Special Compensatory (Counter insurgency) Allowance in terms of direction passed by the Coordinate Bench of this Tribunal in the aforesaid case.”

to submit to the effect that the said order dated 12.10.2017 is based on the reliance that had been place on behalf of the applicant on the order of the coordinate Bench in OA 104/2015 on identical facts. *Inter alia*, it is submitted on behalf of the applicant that there is reference to the aspect in Para-F at page 14 of the present application which reads to the effect:-

“F. BECAUSE, the act of the Respondents in not paying the 10% interest and 12% delayed payment of 'SCCI Allowance' to the Applicant is arbitrary, unjust, unfair and illegal and contrary to the directions issued in the decided case of "Brig A K Bhutani & Ors. Vs. U.O.I. & Ors (O.A. No 144 of 2011)". The Hon'ble Tribunal vide Paras 51 and 52 have held:

"51. Keeping in view the facts and circumstances of the case, the application is therefore allowed. Impugned DO letter (Annexure A-11) is quashed and the Respondents are directed to release the Special Compensatory (Counter- Insurgency) Allowance to the Applicants till

the time they remain posted in designated areas where the said risk-related allowance is being released to personnel posted in other Army units, establishments and formations, with 10% interest per annum. The Respondents are also directed to refund the recovery made, if any, of the said allowance to the Applicants at the same rate of interest.

52. Necessary calculations may be undertaken and effectuated within a period of four months from the date of receipt of a certified copy of this order, failing which interest @12% per annum shall be paid until the final payment is made."

5. The reference that has been made in Para-F in the present application relates to OA 144/2011 whereas the reference made in order dated 12.10.2017 in OA 1307/2017 relates to OA 104/2015. In the present circumstances, for a fair adjudication, the records of OA 144/2011 and OA 104/2015 be put up by the Registry for the next date of hearing.

6. In view of the submissions that have been made on behalf of the applicant, the matter be re-notified alongwith MA 5304/2024 on 30.01.2025 on the date already fixed i.e. 30.01.2025. However, the two cases be not tagged.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)