

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

11.

MA 657/2024 in OA 970/2019

Gp Capt Raman Sahay (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Baljeet Singh, Advocate
For Respondents : Mr. K K Tyagi, Sr. CGSC with
Sgt Pankaj Sharma, DAV

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C. P MOHANTY, MEMBER (A)

ORDER
08.07.2024

MA 657/2024 was instituted by the applicant on 09.02.2024 seeking implementation of the order dated 11.09.2023 in OA 970/2019.

2. Vide order dated 16.02.2024, the respondents were granted six weeks time to file the compliance report. The proceedings dated 06.05.2024 in MA 657/2024 reflect to the effect :-

“The applicant vide MA 657/2024 instituted on 09.02.2024 has sought the execution and implementation of the order dated 11.09.2023 in OA 970/2019 whereby vide Paragraphs 14 and 15 thereof, it was directed to the effect :-

“14. Therefore, in view of our analysis, the OA 970/2019 is allowed and the Respondents are directed to grant the benefit of disability element of pension @20% for life for the disability of DIABETES MELLITUS Type II, rounded off to 50% for life in view of the judgment of the Hon'ble

Apex Court in Union of India versus Ram Avtar (Supra) from the date of discharge i.e. 31.07.2011.

15. However, in view of the verdict of the Hon'ble Supreme Court in Union of India & Ors. vs. Tarsem Singh (Supra), the payment of arrears is restricted to commence to run from three years prior to the institution of the present OA which shall be disbursed to the applicant within three months of the receipt of copy of this order failing which it shall earn interest @ 6% p.a. till the actual date of payment."

Vide order dated 16.02.2024, the respondents sought six weeks time to file the compliance report which has still date not been filed. A submission has made on behalf of the respondents that they intend to assail the order dated 11.09.2023 in OA 970/2019 by filing a writ petition. The records of the OA 970/2019 indicate that vide a separate order dated 11.09.2023, the prayer made by the respondents seeking leave to appeal against the said order was specifically declined in terms of Section 31(1) of the AFT Act, 2007.

In view of the submission now made on behalf of the respondents, in the event of there being no stay order of the operation of the order dated 11.09.2023 in OA 970/2019 being placed on the record by the respondents for the next date of hearing, the affidavit of compliance of the said directions with the demand draft for sum of Rs. 50,000 in the name of the applicant towards payment of costs be placed on the records by the respondents.

The matter be re-notified for hearing on 08.07.2024.

Copy of the order be given DASTI as prayed."

as was submitted on 06.05.2024, it is now once again submitted on behalf of the respondents that they intend to file a writ against the order dated 11.09.2023 in OA 970/2019.

3. In terms of the order dated 06.05.2024, the costs as imposed thereby have not been paid by the respondents and they submit that the same is in the process. It is also submitted that the writ petition is in the process of being filed.

4. In view of the submissions made on behalf of the respondents and the repeated delaying tactics adopted by them in addition to the costs of Rs. 50,000/- as imposed on the respondents vide order dated 06.05.2024, further additional costs of Rs. 75,000/- are now imposed on the respondents to be paid to the applicant vide a demand draft in the name of the applicant for the next date of hearing.

5. The matter be re-notified for hearing on 05.08.2024.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN C. P MOHANTY)
MEMBER (A)
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