

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

11.

MA 3733/2023 in OA 1947/2020

Ex Sgt Kamlesh Kumar Singh Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Ankita Sharma, proxy for
Mr. Durgesh Kumar Sharma, Advocate
For Respondents : Mr. K K Tyagi, Advocate

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

ORDER
29.05.2024

1. MA 3733/2023 has been filed by the applicant seeking implementation of the order 10.05.2023 in OA 1947/2020 whereby vide Paras-7 and 8 thereof it was directed to the effect:-

“7. In view of the aforesaid judicial pronouncements and the parameters referred to above, the applicant is entitled for disability element of pension in respect of disability 'Primary Hypertension (Old)'. Accordingly, we allow this application holding that the applicant is entitled to disability element of pension @ 30% rounded off to 50% with effect from the date of his discharge in terms of the judicial pronouncement of the Hon'ble Supreme Court in the case of Union of India Vs. Ram Avtar (Civil Appeal No. 418/2012) decided on 10.12.2014.

8. The respondents are thus directed to calculate, sanction and issue the necessary PPO to the applicant within a period of three months from the date of receipt of copy of this order and the amount of arrears shall be paid by the respondents, failing which the applicant will be entitled for interest @6% p.a. from the date of receipt of copy of the order by the respondents.”

2. The records of OA 1947/2020 indicate to the effect that there was no prayer made by the respondents seeking grant of Leave to

Appeal against the said order within the stipulated period of time in terms of Section-31 of the AFT Act, 2007. Rather RA 48/2023 was filed by the respondents whereby the prayer made by the respondents therein was to the effect:-

“ It is most respectfully submitted to the Hon’ble Tribunal that MA filed by the applicant for the review of order dated 10.05.2023, hence, the Hon’ble Tribunal may kindly be pleased to allow the MA and review the impugned order dated 10.05.2023 upto the extent that the disability element of pension rounded off to 50%. However, the arrears will be restricted for 3 years from the date of filing of the present OA, as per judgment passed by Hon’ble Supreme Court in Tarsem Singh case instead of from the date of discharge, in view of the aforesaid facts and circumstances and in the interest of justice.”

The said prayer made by the respondents was allowed vide order dated 02.11.2023 in RA 48/2023 whereby the grant of arrears of the disability element of pension in relation to as directed vide order dated 10.05.2023 in OA 1947/2020 confined to commence to run from a period of three years prior to the institution of the OA in terms of verdict of the Hon’ble Supreme Court in Tarsem Singh case.

3. Vide orders dated 13.09.2023, 21.11.2023, 24.01.2024, 07.03.2024 and 24.04.2024 in the present MA 3733/2023, the respondents were granted six weeks, six weeks, four weeks, four weeks and four weeks time respectively as prayed by them for compliance of the said directions which have till date not been complied with.

4. A submission is rather now made on behalf of the respondents that they intend to assail the said order. It is always open to the respondents to assail the order, if permissible in accordance with law.

5. However, in the event of there being no stay order of the operation of the order dated 10.05.2023 in OA 1947/2020 being placed on the record by the respondents for the next of hearing, the affidavit of compliance of the said directions with the demand draft for a sum of Rs. 75,000/- in the name of applicant towards payment of costs placed on the record by the respondents.

Re- list the matter on **19.09.2024**

Copy of this order be given **DASTI** as prayed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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