

COURT No.3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

24

OA 1468/2020 with MA 1722/2020

Hav Dinesh		Applicant
VERSUS		
Union of India and Ors.		Respondents

For Applicant	:	Mr. H S Tiwari proxy for, Mr. Ankur Chhibber, Advocate
For Respondents	:	Mr. Anil Gautam Sr CGSC

CORAM

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

ORDER
03.02.2023

MA 1722/2020

This is an application filed under Section 22(2) of the Armed Forces Tribunal Act, 2007 seeking condonation of delay of 124 days in filing the present OA. In view of the judgments of the Hon'ble Supreme Court in the matter of UoI & Ors Vs. Tarsem Singh 2009(1)AISLJ 371 and in Ex Sep Chain Singh Vs. Union of India & Ors (Civil Appeal No. 30073/2017) and the reasons mentioned, the MA 1722/2020 is allowed and the delay of 124 days in filing the OA 1468/2020 is thus condoned. The MA is disposed of accordingly.

OA 1468/2020

The present OA has been filed by the applicant seeking following prayer:-

“(a) To call for the records of the case based on which the Applicant was initially issued with impugned Apprehension Roll dated 16.11.2019 and thereafter illegally declared Absent Without Leave vide Part – II Order No. 0/216/MR/0671/001/2019(Copy not made available to the Applicant) as well as the letter dated 23.11.2019 vide which the Respondents ordered for declaring the Applicant a Deserter and thus, stopping his pay and allowances with immediate effect and thereafter quash all such orders or any other such order emanating therefrom in view of the orders dated 26.12.2019, 30.12.2019, 07.01.2020, 14.02.2020, 22.02.2020, 25.02.2020, 11.06.2020, 26.06.2020, 29.06.2020 and 04.07.2020 passed by the Respondents respectively.

(b) To direct the Respondents No. 3,5 and 6 to regularize the service of the Applicant with effect from 16.11.2019 i.e. the date impugned Apprehension Roll was issued against the Applicant and thereafter directing the Respondent No.4 to pass the necessary orders for restarting the pay and allowances of the Applicant with effect from the date the same was ordered to be stopped i.e. 23.11.2019.

(c) To direct the Respondent No. 4 to release the salary of the Applicant for the intervening period from November 2019 till date as expeditiously as possible considered the poor financial condition of the Applicant alongwith interest arising therefrom @ 8 percent per annum thereby granting all the consequential benefits

that may have arisen in favour of the Applicant for the said period.

(d) Pass any other order/orders as deemed appropriate by this Hon'ble Tribunal in the facts and circumstances of the present case."

3. On behalf of the respondents a letter dated 03.02.2023 has been placed on record indicating to the effect that the charges against the applicant have been dismissed and the payment/salary has been restored w.e.f 19.11.2019 and all dues of the pay and allowances have already been credited by PAO(OR) and also received by the applicant and a copy of the said communication has been supplied to applicant, who now prays for and is granted time to seek instructions.

4. List the matter for final hearing on 10.02.2023.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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