

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

SL-I

A.

MA 2514/2023 & MA 2515/2023 in OA 1677/2021

Union of India & Ors.

..... Applicant

VERSUS

Col Sanjeev Tyagi (Retd.)

..... Respondents

For Applicant : Ms. Barkha Babbar, Advocate

For Respondents : Mr. Prashant Negi, Proxy for

Mr. S. S. Pandey, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE LT GEN P.M HARIZ, MEMBER (A)

ORDER

04.09.2023

The matter is taken up for directions in view of proceedings dated 21.08.2023. OA 1677/2021 has been disposed of vide order dated 30.05.2023 with the following directions :-

"9. In the light of the above consideration, the OA is allowed. We find that the applicant is entitled to the relief as under and we, therefore, direct the Respondents to:

(a) Review the pay fixed of the applicant on promotion to the rank of Lt Col in Dec 2004 under the 5th CPC and after due verification re-fix his pay in a manner that is most beneficial to the applicant.

(b) Re-fix the applicant's pay on transition into 6" CPC and subsequent promotion with the most beneficial option, while ensuring that the applicant does not draw less pay than his junior.

(c) Re-fix the applicant's pay on transition into 7 CPC and retirement accordingly.

(d) Issue fresh PPO and pay the arrears within three months from the date of this Order and submit a compliance report."

On 21.08.2023 MA 2514/2023 filed by the respondents seeking leave to appeal was declined. The said two orders dated 30.05.2023 in OA 1677/2021 and the direction declining the

grant of leave to appeal whilst declining MIA 2514/2023 stand as they are and correct as per record.

The matter has however been taken up for directions in view of observations in Para 2 in the order dated 21.08.2023 wherein it was stated to the effect :-

Inter alia, relief is sought on behalf of the respondents in view of the observations of first sentence of Para 8 of the said order which read to the effect :-

"It is evident from the above details that there indeed is a financial advantage to the applicant had his pay on promotion in Dec. 2004 been fixed from the date of his next increment in the first half of 2005."

as a further observation in Para 3 thereof which is to the effect :-

"3. As regards the reliance that has been placed on para 8 adverted to hereinabove, it is essential to observe that there is typographical error in the first sentence of para 8 with regard to the use of the word advantage which is to be read as disadvantage. Rest of the contents of the order 30.05.2023 shall remain the same."

On a perusal of the order dated 30.05.2023 in OA 1677/2021 we are of the considered view and hold that there is no infirmity whatsoever in the order dated 30.05.2023 in OA 1677/2021 as it stood and thus the observations in Para 3 of the order dated 21.08.2023 are expunged from the record.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN P M HARIZ)
MEMBER (A)

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