

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

54.

MA 3418/2022 with MA 2838/2023 in OA 2053/2021

Gp Capt V K Singh Lgs
Versus
Union of India & Ors.

... Applicant

... Respondents

WITH

55.

MA 33/2023 in OA 2053/2021

Gp Capt V K Singh Lgs
Versus
Union of India & Ors.

... Applicant

... Respondents

For Applicant : Mr. Ajai Bhalla, Advocate
For Respondents : Mr. Harish V Shankar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER
03.11.2023

MA 2838/2023

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record.

2. MA stands disposed of.

MA 3418/2022

3. Invoking the jurisdiction of this Tribunal under Section 29 of the Armed Forces Tribunal Act, 2007, applicant has filed this application and sought implementation of the order passed on 13th July, 2022 in OA 2053/2021. In OA 2053/2021, the prayer made by the applicant reads as under:

“Relief(s) Sought:-

- a. The impugned order dated 26th May 2018 be quashed being wholly arbitrary and illegal and the broken period of leave from 16 Nov 2015 to 20 Nov 2015 be regularised against the balance leave quota of the year 2015.
- b. The Annual Reports (ARs) raised by Air Cmde P Ramesh as AOC 23 ED for the period 2015, 2016 and 2018 by AOC 7BRD be expunged.
- c. HRA for the period of 02 Sep 2011 to 30 May 2013 and 28th March 2014 to 20 May 2016 with the interest be granted.
- d. Air Commodore promotion board of Logistics Officers for the year 2022 for be withheld until finalisation of this case.”

4. The application was allowed by an order passed on 13th July, 2022 and the operative part of the order in para 16 reads as under:-

“16. As far as grant of HRA is concerned, the same has been denied to the applicant for the period from 02.09.2011 to 30.05.2013 and from 28.03.2014 to 20.05.2016 on the grounds which are not sustainable. This issue has been decided by a Coordinate Bench of this Tribunal and that being so, in the peculiar facts and circumstances of the case, when the issue has already been decided by a Bench of this Tribunal on the ground that plural remedies cannot be canvassed in a single application, we do not deem it appropriate to dismiss the application. The prayer for HRA being an issue that is decided by a Coordinate Bench of this Tribunal can very well be decided in this application and we do not deem it appropriate to reject the prayer on that ground. Accordingly, we allow Prayer No. 8(a) and (c) and direct the respondents to settle the claim of the applicant within three months. As far as the prayer

of the applicant for expunction of the ARs are concerned, we find that the statutory complaint filed by the applicant in this regard is already pending and it is not appropriate for us to enter into this area of adjudication and we leave it to the respondents to decide the statutory complaint of the applicant within a reasonable period of time preferably within three months and thereafter in case, the applicant has any grievance he may take recourse to the remedy as may be available to him. With the aforesaid, we allow the application in part and disposed of.”

5. During the pendency of the matter, respondents have granted House Rent Allowance to the applicant for the period from 2nd September, 2011 to 30th May, 2013 and again from 28th March, 2014 to 20th May, 2016, the benefit was granted to the applicant in the light of an order passed by the Jaipur Bench of this Tribunal in OA-889/2012 Col (Retd) S P Kottai Vs. Union of India and Ors. decided on 9th March, 2015.

6. Even though arrears of House Rent Allowance as prayed for have been granted to the applicant, Mr. Ajay Bhalla, learned counsel appearing for the applicant invites our attention to the prayer made in the OA, particularly, the prayer made for grant of interest on the delayed payment of House Rent Allowance and now submits that even though the arrears of House Rent Allowance have been granted, the interest has not been granted.

7. A perusal of the order passed by the Tribunal on 13th July, 2022 indicates that even though it is indicated that

prayer 8(a) and 8(c) are allowed and the respondents were directed to settle the claim of the applicant within three months, specifically, there was no direction for payment of any interest to the applicant. In the order passed by the Jaipur Bench in the case of Col S. P. Kottai (Supra) also even though interest @ 12% per annum was prayed for, learned Bench has not granted any interest and had only allowed arrears of House Rent Allowance on the grounds indicated in the application. While allowing OA 2053/2021 we had granted relief to the applicant based on the judgment rendered by the Jaipur Bench in the case of Col S. P. Kottai (Supra) wherein also we find no interest has been granted and therefore it is a conscious omission in the order passed on 13th July, 2022 in OA 2053/2021 and there being no grant of interest in the OA, now we see no reason to exercise our jurisdiction under Section 29 and grant interest to the applicant.

8. The order having been complied with, both applications MA 3418/2022 and MA 33/2023 stand disposed of.

[RAJENDRA MENON]
CHAIRPERSON

[C. P. MOHANTY]
MEMBER (A)

Priya