

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

1.

**MA 4932/2023 in MA 4933/2023 in RA 15/2020 in
OA 708/2016**

UOI & Ors **Applicant**
VERSUS
Smt. Kamla Devi wd/o Late Hony
Nb Sub Hamir Singh Hooda **Respondents**

For Applicant : Mr. Prabodh Kumar, Advocate
For Respondents : None

CORAM

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

ORDER
14.12.2023

The applicants i.e. the Union of India & Ors., arrayed as respondents to OA 708/2016 vide the present MA 4932/2023 seek leave to appeal under Section 31 of the AFT Act against the final order dated 20.09.2022 of this Tribunal in RA 15/2020 as well as order dated 16.04.2019 in OA 708/2016. Alongwith the said application is MA 4933/2023 whereby, the applicants (Union of India & Ors.) respondents to OA 708/2016 arrayed as respondents to OA 708/2016 seek condonation of 332 days delay in filing the MA 4932/2023 under Section 31 of the AFT Act 2007, with the reasons mentioned for the same as stated in the application are as under:-

“That it is respectfully submitted that the said application for leave to appeal could not be filed within limitation as this issue is connected with various departments being a policy matter and

the delay was caused due to delay in obtaining the opinion and views from different departments.

That it is submitted that the delay caused in filling the said application is due to the reasons mentioned aforesaid and inadvertently.”

Apparently, the said reasons put forth by the applicants do not bring forth any sufficient grounds for the delay in filing the application seeking leave to appeal in terms of Section 31(2) of the AFT Act 2007, and the same is thus dismissed.

2. Nevertheless, we also consider it appropriate in the interest of justice to consider the submissions that have been sought to made on behalf of the applicants i.e. the Union of India and Ors. arrayed as respondents to OA 708/2016 submitting to the effect that a substantial question of law arises vide disposal of OA 708/2016.

3. It is essential to observe that after disposal of OA 708/2016 vide order dated 16.04.2019, the Union of India & Ors. sought a review thereof on the grounds of a letter dated 08.07.2019 of the Department of Ex Servicemen Welfare, Ministry of Defence, Govt. of India in relation to a stated clarification, which has been taken into account vide the order dated 20.09.2022 in RA 15/2020 categorically. It is essential to observe that it has been specifically observed therein to the effect:-

“In the instant case, the respondents/applicant has been granted one Ordinary Family Pension and One Special Family Pension which could have been granted. That being so, there is no merit in the application. Same is accordingly dismissed.”

4. We find no reason to differ from the said observations in the order dated 20.09.2022 in RA 15/2020 and thus it is also brought forth that there is no substantial question of public importance involved in the matter. Thus, the application in the circumstances, MA 4932/2023 is dismissed.

4. We also express our anguish in the apparent callous delay that the respondents have chosen to exercise in non-implementation of the order dated 16.04.2019 in OA 708/2016 and the order dated 20.09.2022. It is essential to advert to Section 29 of the AFT Act 2007, which reads as under:-

29 Execution of order of the Tribunal. —Subject to the other provisions of this Act and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.

which makes it apparent, that the orders of this Tribunal disposing of an application are final and not to be called in question in any Court and such orders are required to be executed accordingly. In the circumstances, we consider it essential in the interest of justice that the applicants i.e. Union of India and Ors., the applicants of the present MA 4932/2023 be burdened with a cost of Rupees 25,000 to be paid to the applicant of OA 708/2016 which in the event of non-payment thereof would be recoverable as revenue.

5. The oral prayer made on behalf of the applicants of MA 4932/2023 seeking waiver of the cost imposed hereinabove, is declined.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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

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