

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

16.

OA 1353/2023 with MA 2981/2024

Pradeep Kumar Agarwal
(Ex Chief Air Artificer) Applicant

VERSUS

Union of India and Ors. Respondents

For Applicant : Mr. Shivam Srivastava, Advocate
For Respondents : Ms. Jyotsna Kaushik, Advocate

CORAM

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

ORDER
30.07.2024

The applicant vide the present OA makes the following prayers:-

- "a. Direct the respondents to pay the applicant an interest @18% per annum over the delayed payments of Pensionary Benefits, calculated from the date of Applicant's retirement till the date of actual realization of the said dues by the applicant; and/or*
- b. Direct the respondents to pay to the applicant an amount of Rs. 5,00,000/- in the form of the Monetary compensation for the mental agony caused since last 37 years in his fight for his rightful claim; and/or*
- c. direct the respondents to pay to the applicant an amount of Rs. 2,00,000/- towards the Legal Cost borne by the applicant in process of fighting for his rightful claims; and/or*
- d. To pass any other order or direction in favour of the applicant which may be deemed just and proper under*

the facts and circumstances of this case in the interest of justice.”

2. Undoubtedly, vide para 3 of the order dated 22.05.2023 in OA 1353/2023 it was directed to the effect:-

“3. Respondents to explain the reasons for delay if any in grant of pension to the applicant and the consequential question of payment of interest shall be considered after reply filed by the respondents.”

3. The respondents have filed their counter affidavit dated 24.07.2024 praying for the dismissal of the OA with exemplary costs submitting to the effect that the Hon'ble High Court of Delhi vide order dated 24.03.2023 in Writ Petition (C) 2986/2023 has already rejected the reliefs prayed by the applicant.

4. It is essential to observe that alongwith the OA itself, the applicant has placed on record Annexure A-9, the judgment dated 24.03.2023 of the Hon'ble Division Bench of High Court of Delhi in Writ Petition (C) 2986/2023 which reads to the effect:-

“1. Vide the present petition, petitioner is seeking directions to respondents to pay an interest @ 18% per annum to petitioner over the pensionary benefits w.e.f 21.02.2023 till realization, to pay an amount of Rs. 5 lacs in form of monetary compensation and Rs. 2 lacs towards legal expenses borne by the petitioner.

2. It is not in dispute that petitioner has retired from service on 31.08.1986 and the since pensionary benefits were not granted by the respondents, he filed C.W. No.

7273/1999 which was disposed of vide order dated 15.09.2000 observing as under:

“Learned counsel for the respondents, on instructions from Lt. Ruby Singh, who is present in Court, states that the deficiency in the pensionable service has been condoned and the forms have already been sent and that the petitioner would get his pension in accordance with the Rules.

In view of the above statement, the petition does not survive and the same is dismissed as not surviving. However, the petitioner will be at liberty to approach this Court for revival of this petition if the communication received by him is contrary to the statement made by the counsel for the respondents.

3. It is further not in dispute that pursuant to the aforesaid order dated 15.09.2000, petitioner had received pension as well as arrears. Now, vide the present petition, petitioner seeks interest on arrears which is barred by virtue of delay and laches.

4. In view of above, present petition is dismissed. ”

5. Significantly, the averments made in Para 4.16 of the present OA read to the effect:-

“4.16 The applicant also approached the Delhi High Court vide W.P. (C) 2986/2023. However, the Hon’ble High Court was of the opinion that this instant Tribunal has the proper jurisdiction to deal with this matter and adjudicate it fairly. The said Writ Petition was thereby dismissed vide order dated 24.03.2023.”

6. The attempt made by the applicant vide the present OA 1353/2023 and vide averments in 4.16 thereof reproduced hereinabove is to the effect that the Hon’ble High

Court of Delhi was of the opinion that the instant matter was to be dealt with by this Tribunal and thus dismissed the Writ Petition (C) 2986/2023, vide order dated 24.03.2023 placed on record as Annexure A-9 *which has already been reproduced hereinabove in Para No.4.*

7. The submission made by the applicant vide the OA 1353/2023 and Vide Para 4.16 that the Writ Peition (C) 2986/2023 was dismissed by the Hon'ble High Court of Delhi vide order dated 24.03.2023, in view of this Tribunal having jurisdiction to deal with the matter is wholly erroneous. This is so in as much as the copy of the judgment dated 24.03.2023 which has been reproduced hereinabpve in para 4, placed on record as Annexure A-9 in Writ Petition (C) 2986/2023 indicates that each of the prayers made by the applicant i.e. in relation:-

- the grant of interest @18% per annum over the delayed payment of pensionary benefits calculated from the date 31.08.1986 till the actual realization of the said dues by the applicant;
- the prayer made by the applicant seeking directions to the respondents to pay the applicant a sum of Rs. 5,00,000/- (Five Lacs) in the form of monetary

compensation for the mental agony caused to him in the last 37 years in his fight for his rightful claim and;

- the prayer made by the applicant seeking directions to pay an amount of Rs. 2,00,000/- (Two Lacs) towards the legal costs borne by the applicant in the process of fighting for his rightful claims,

as submitted by the applicant, have each been categorically declined vide order dated 24.03.2023 in Writ Petition (C) 2986/2023, with it having been observed by the Hon'ble High Court of Delhi, *inter alia* that the said writ petition was barred by virtue of delay and latches. The judgment dated 24.03.2023 in Writ Petition (C) 2986/2023 placed on the record as Annexure A-9 of the Hon'ble High Court of Delhi is categorical to the effect that the Writ Petition (C) 2986/2023 had been dismissed being barred by virtue of delay and latches and the very same prayer made and rejected by the Hon'ble High Court of Delhi cannot be re-agitated by the applicant before us. The OA 1353/2023 is thus dismissed.

8. We refrain from imposing exemplary costs on the applicant in the interest of justice in as much as submissions made on behalf of the applicant are to the effect that there had been much delay in the payment of his pensionary

benefits to him by the respondents which he contends for a period of 37 years were not paid to him.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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

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