

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

5.

OA 3421/2024

Mrs Rekha Sharma W/o Hav Hausla Prasad Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Baljeet Singh, proxy for
Mr. B P Vaishnav, Advocate
For Respondents : Mr. R.S.Chillar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
04.09.2024

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

"(A) To grant maintenance allowance to applicant @33% per month w.e.f. 30.01.2021 (date of desertion of applicant), from the pay and allowances (to include Basic Pay, Military Service Pay, Dearness Allowance and Technical Allowance, if applicable) from her husband (i.e. 10315639H

(B) Direct the Respondents to stop recovery of commuted amount of pension, with immediate effect, as the same had already been recovered for 12 yrs and 01 (one) mth

(C) Direct the Respondents to refund the excess amount recovered from pension beyond 11 yrs and 06 mths, ie, wef Jul 2023, along with 8% interest.

(D) Pass any other order/direction/relief as deemed fit and proper and necessary to meet the end of justice."

2. Whilst accepting notice of the OA 3421/2024, on behalf of the respondents, it is submitted that the spouse of the applicant

has not been added as a party. It is essential to observe that the averments made in the OA 3421/2024, *inter alia* indicate to the effect that the applicant has been making representations to the respondents vide letters dated 07.11.2023 and thereafter pursuant to the receipt of letters dated 11.12.2023, 15.12.2023 and 18.12.2023, the applicant submits that she has already submitted the requisite documents to the respondents so that, action is taken on her prayers for the grant of maintenance.

3. In view thereof, the respondents are directed to treat the present OA 3421/2024 as a representation made to them in relation to the prayer made by the applicant which the respondents shall dispose of within a period of one month from the date of receipt of the copy of this order with default. Thereafter, it will be open to the applicant to seek redressal, if any.

A copy of this order be given *DASTI*, as prayed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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

44.

MA 4472/2024 in OA 3421/2024

Mrs Rekha Sharma W/o Hav Hausla Prasad Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Baljeet Singh, proxy for
Mr. B P Vaishnav, Advocate
For Respondents : Mr. R S Chhillar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
16.10.2024

MA 4472/2024 has been filed by the applicant seeking deletion of Prayer 1(B) and 1(C) of the order dated 04.09.2024 in OA 3421/2024. Vide order dated 04.09.2024 in Para 1 it was observed to the effect:-

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

"(A) To grant maintenance allowance to applicant @33% per month w.e.f. 30.01.2021 (date of desertion of applicant), from the pay and allowances (to include Basic Pay, Military Service Pay, Dearness Allowance and Technical Allowance, if applicable) from her husband (i.e. 10315639H

(B) Direct the Respondents to stop recovery of commuted amount of pension, with immediate effect, as the same had already been recovered for 12 yrs and 01 (one) mth

(C) *Direct the Respondents to refund the excess amount recovered from pension beyond 11 yrs and 06 mths, ie, wef Jul 2023, along with 8% interest.*

(D) *Pass any other order/direction/relief as deemed fit and proper and necessary to meet the end of justice."*

2. A perusal of OA 3421/2024 indicates that the prayers made vide prayer clause 8(A) and 8(B) therein were only to the effect:-

"(a) To grant maintenance allowance to applicant @33% per month w.e.f. 30.01.2021 (date of desertion of applicant), from the pay and allowances (to include Basic Pay, Military Service Pay, Dearness Allowance and Technical Allowance, if applicable) from her husband (i.e. 10315639H Hav Hausla Prasad) under Section 91 (i) of the Army Act with Army Rules 193 as amended;

(b) Any other suitable relief this Hon'ble Court deems fit and proper may also be granted."

3. In view thereof, the application MA 4472/2024 is allowed and paragraphs B and C in the first Para of order dated 04.09.2024 are directed to be deleted and first Para of order dated 04.09.2024 in OA 3421/2024 shall read to the effect:-

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

"(a) To grant maintenance allowance to applicant @33% per month w.e.f. 30.01.2021 (date of desertion of applicant), from the pay and allowances (to include Basic Pay, Military Service Pay, Dearness Allowance and Technical Allowance, if applicable) from her husband (i.e. 10315639H Hausla Prasad) under Section 91 (i) of the Army Act with Army Rules 193 as amended;

(b) *Any other suitable relief this Hon'ble Court
deems fit and proper may also be granted."*

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

/nmk