

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

45.

MA 3276/2023 IN OA 322/2021

Ex MWO (HFO) Shankar Ram & Ors Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. A.K. Choudhary, Advocate for
Mr. Aruni Poddar, Advocate
For Respondents : Dr. V S Mahndiyan, Advocate

WITH

46.

RA 26/2024 WITH MA 2253/2024

Union of India & Ors. Applicant
Versus
Ex MWO (HFO) Shankar Ram & Ors. Respondents

For Applicant : Dr. V.S. Mahndiyan, Advocate
For Respondents : Mr. A.K. Choudhary, Advocate for
Mr. Aruni Poddar, Advocate

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

ORDER
19.12.2024

RA 26/2024

In OA 322/2021, there were 23 applicants, in whose cases orders were passed by this Tribunal on 05.09.2022 for the grant of one notional increment in accordance with the law laid down by the Hon'ble Supreme Court in Civil Appeal No. 2471 of 2023, decided on 11.04.2023, titled Director (Admn. and HR) KPTCL and Others vs. C.P. Mundinamani and Others [(2023) SCC Online SC 401]. The respondents

have filed this review application wherein they have submitted that out of the 23 applicants, 11 applicants, details of whom are provided in Para 6 of the review application, are not entitled to the notional increment. It is pointed out that, as per the tabulated chart, after drawing the last increment, these applicants are claiming the next increment before the period of one year has elapsed, and therefore, they are not entitled to the said benefit. The respondents have passed a detailed order in these 11 cases explaining that the applicants are not entitled to one notional increment in accordance with the law.

2. Although the applicants have filed a counter affidavit to the review application and have rebutted the contentions of the respondents, in our considered view, the issue pertaining to their right to receive the increment will have to be adjudicated separately. It cannot be disposed of in light of the common judgment passed in the OA 322/2021.

3. Accordingly, we dispose of the Review Application with the following directions:

(a) In the case of the 11 applicants whose details are furnished in Para 6 of the review application, we grant liberty to the respondents to pass the speaking orders. The applicants in OA 322/2021 are granted further

liberty that, in case they are aggrieved by the speaking order passed by the respondents, they may challenge the action afresh in accordance with law. The dates of promotion, the period for which increments are to be granted, and other factual aspects of the matter in all 11 cases appear to be different from the tabulated chart provided. Therefore, it is not possible to club these cases together and decide them as a common question of law. The facts in each case, including the promotion dates, the date of drawing the last increment, and their entitlement to the next increment, differ, as do the years and periods of service.

(b) Hence, we grant liberty to the respondents to implement the speaking order, and the 11 applicants, detailed in Para 6, are free to challenge the orders afresh in accordance with law.

MA 3276/2023

4. The applicant has filed execution application, i.e., MA 3276/2023 seeking the implementation of the order passed by this Tribunal on 05.09.2022 in OA 322/2021. Through this application, all the 23 applicants have sought the implementation of the order passed in OA 322/2021


on 05.09.2022. We have passed a detailed order today in RA 26/2024, wherein, out of the 23 applicants, the case of the 11 applicants detailed in the review application has been separately addressed. They have been granted liberty to challenge the action subsequently taken by the respondents in accordance with law.

5. Therefore, the names of the 11 applicants should be deleted from the cause title of this application. The execution application will now proceed only with regard to the 12 remaining applicants.

6. Regarding these remaining 12 applicants, the respondents contend that they will be paid the benefit of the increment and respondents are granted four weeks' time to do so.

7. List the MA for further consideration on 27.01.2025.

8. A copy of this order be given 'DASTI' to learned counsel for the parties.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


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