

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

33.

MA 5304/2024 with MA 5473/2024 in OA 1307/2017

Lt Col Kinsuk Dutta (Retd) & Ors. Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Mohd. Amanullah, Advocate
For Respondents : Ms. Barkha Babbar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER
17.11.2025

MA No.5304/2024

This Application has been filed under section 29 of the Armed Forces Tribunal Act, 2007 read with Rule 25 of the Armed Forces Tribunal(Procedure) Rules, 2008 seeking enforcement and execution of the Order passed by this Tribunal on 12.10.2017 in OA No.1307/2017. Both the applicants who were applicants in the OA claim to grant of interest on the delayed payment of Special Compensatory (Counter-Insurgency) Allowance. The claim of the applicants for this allowance was adjudicated by a co-ordinate Bench of this Tribunal on 12.10.2017 and the direction issued in para 2 of the said Order reads as under:-

"2. The petition is, accordingly disposed of with direction to respondents to grant Special Compensatory (Counter Insurgency) Allowance to the applicants for their

deployment in the counter insurgency areas for the period for which they were deployed there subject to verification of facts. This is to be done within a period of two months from today."

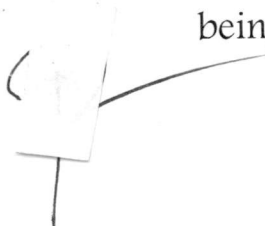
2. It is case of the applicants that the Order of this Tribunal passed on 12.10.2017 was based on an earlier Order passed by a Coordinate Bench of this Tribunal in OA No.104/2015 and other cases and in those cases the coordinate bench had granted interest to the applicants therein and as the applicants are not being paid interest in the present case by the respondents, they have invoked the jurisdiction of this Tribunal by filing the present execution application.
3. Respondents have filed a detailed reply and have objected to the claim made. It is their contention that in the Order passed on 12.10.2017 in the Original Application, there was no direction to pay interest to the applicants and therefore, there is no question of payment of interest as the right to claim interest is based on the order originally passed by this Tribunal and when there is no direction to pay interest in the original order in an execution application,



without there being an order in the decree passed, no interest can be granted.


4. We have heard learned counsel for the parties. A perusal of para 2 of the Order passed indicates that the only direction issued is to the effect that the OA was disposed of with a direction to the respondents to grant Special Compensatory (Counter-Insurgency) Allowance to the applicants for the period they were deployed after verification of facts. There is nothing in the Order to indicate that the allowance in question is to be paid along with interest. Merely because there was some direction to pay interest in certain similar cases, there being no specific direction in the case of the applicants, it is a deliberate omission on the part of the court and when in the original order passed on 12.10.2017 there no mandate to pay interest, the right to pay the same cannot be adjudicated and decided in an execution proceeding. It is a well settled principle of law that execution court cannot go beyond the decree and pass any order.

5. In the original order as indicated hereinabove there being no direction to pay interest, merely because in some

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similar cases interest has been granted, in these execution proceedings, we cannot grant interest to the applicants. Accordingly, finding the prayer for interest in an execution proceeding to be unsustainable in law, we dismiss the Application.

6. Pending MA also stands closed.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[RASIKA CHAUBE]
MEMBER (A)

/vb/