

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

109.

OA 636/2023 with MA 925/2023

JWO Jayanta Mukherjee (Retd) ..... Applicant  
VERSUS

Union of India and Ors. .... Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate  
For Respondents : Mr. Prabodh Kumar, Sr. CGSC  
Mr. Pankaj Sharma, Incharge, DAV,  
Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER  
01.08.2025

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

*"A. Direct respondents to Pay FMA in terms of Govt of India/MoD policy on the subject (PCDA Circular No. 165 and subsequent circulars) with applicable interest, being part of pension since discharge ie, Jun 2002; as he opted not to join ECHS and submitted undertaking to the PDA to the that affect that he is entitled for medical facilities under Armed Forces Hospital/MI Room and opted for FMA in lieu; and/or*

*B. Cost of the litigation with penal interest to be awarded in favour of applicant for withholding entitled pension/allowances without any valid reason; and/or*

*C. Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."*

2. As per the pleadings on the record, the applicant was enrolled in the Indian Air Force on 26.10.1981 and was discharged from service on 31.05.2002. Vide the present OA, the

applicant submits that he has not been paid the Fixed Medical Allowance(FMA) to which he is entitled to. The submissions made on behalf of the respondents are to the effect that the applicant after 01.04.2003 had not given an option to apprise the Indian Air Force authorities as to whether he wanted the ECHS facilities or whether he wanted the Fixed Medical Allowance. Furthermore, as per averments made in Para-8 of the counter affidavit filed on 01.07.2024 by the respondents, it was stated to the effect:-

*“8. As per Para 3(A)(i) of circular no. 165 of PCDA (p), Consequent upon introduction of new Medicare Scheme w.e.f. 01.04.2003, all Ex-servicemen who retired on or after' 10.4.2003, have to become member of ECHS compulsory and are not eligible to draw Fixed Medical Allowance. All pre 01.4.2003 retirees have the option of either joining the scheme after depositing the requisite lump sum amount for the purpose or drawing Fixed Medical Allowance as per extent rates'.”*

3. Thus vide order dated 13.01.2025 in as much as the submission sought to be made on behalf of the respondents was that the applicant had opted for the medical facilities from the Armed Forces Hospital/MI Rooms at Jamnagar, he was not entitled to the prayers made by him, the respondents were directed to produce the option exercised by the applicant after 10.04.2003. On behalf of the respondents today has been submitted letter no. Air HQ/99798/21/674970/SP/Pre-06(CC)/DAV dated 17.02.2025, wherein it has been stated vide Para-2 to the effect:-

*“2. As per the option form, the applicant opted for the medical facilities from armed forces Hospitals/*

*MI Rooms at Jamnagar on 01 Oct 2001 (ECHS) ie around 08 months before he proceeded on discharge from IAF (copy of option form annexed herewith for your ready reference). Pertinent to mention here is the fact that pre 01.04.2003, it was the choice given to the personnel to opt for either ECHS facilities or drawing of Fixed Medical Allowance (FMA) on monthly basis. However, after 01.04.2003, ECHS facilities were made compulsory and therefore the applicant continued to avail ECHS facilities as per his choice till date. Accordingly, Corr PPO No. 601200200823 with Corr No. 1 (copy annexed) has been issued by the O/o PCDA (P) Prayagraj wherein it is mentioned as follows, "Note: FMA has not been sanctioned as per option exercised."*

thus stating that the applicant had submitted the option on 01.10.2001 i.e. around eight months before he proceeded on discharge seeking the grant of the medical facilities from the Armed Forces Hospital/MI Rooms at Jamnagar. Apparently, the said document submitted on behalf of the respondents indicates that after 01.04.2003 there has been no option exercised by the applicant. In terms of the averments made in the counter affidavit of the respondents themselves all pre-01.04.2003 retirees have the option of either joining the ECHS scheme after depositing the requisite lumpsum amount for the purpose or drawing the fixed medical allowance as per extant rates.

4. Apparently, thus as the applicant after 01.04.2003 has not opted to join for the ECHS scheme, and is not contended nor established to have availed ECHS facilities thereafter, he is entitled to the grant of the Fixed Medical Allowance as per extant rates and thus the applicant is entitled to grant of the Fixed Medical Allowance due to applicant wef 01.04.2003 which be paid to the

applicant within a period of three months of this order, failing which, interest @8% per annum would be payable to the applicant by the respondents.

4. The OA 636/2023 is disposed of accordingly.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)



(RASIKA CHAUBE)  
MEMBER (A)

TS