

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

78.

OA 166/2023 with MA 176/2024

Sep (DVR) A Khadar Vali Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr. Rajeev Kumar, Advocate for R- 1 to 3 & 5
Mr.Narinder Singh Dahiya, Advocate for R-4

CORAM

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

ORDER
17.03.2025

The applicant vide the present OA has made the following prayers:-

- “A. Quash /Set aside Impugned Order placed at Annexure-A1; and/or*
- B. To direct the respondents to stop deducting Interim Maintenance Allowance granted to Mrs Pulukuri Haseena Begum, wife of Applicant as the matter is sub judice before competent Court of Law; who already granted Maint Allowances to Lady and son after considering the fact in totality; and/or*
- C. Issue an order or direction of appropriate nature to the Respondents to stop deduction of excessive amount form Applicant's Salary, which has been paid to Lady by ignoring judicial order pass by awarding Maint Allowances to lady and their son by ADJ Giddalur; and/or*
- D. To pass such further order or orders, direction/Directions as may deem fit and proper in accordance with law and direct the Respondence to*

*produce record with regard to processing case of Main Allowances of Lady; and/or
E. Any other just and equitable order in the interest of justice may kindly be passed.”*

2. Along with the same is a prayer seeking grant of interim relief to the effect:-

“9. Stop deduction any amount from Applicant Salary which is excessive of the Maintenance Allowances awarded by ADJ Giddalur in MC No. 02 of 2020, thus praying for Ad-Interim direction in the interest of justice and fair play by this Hon’ble AFT so excessive action on the part of Army Auth can be restricted.”

3. Vide order dated 20.01.2023, it was directed to the effect:-

Issue Notice to the respondents. Shri Rajeev Kumar, Advocate accepts notice on behalf of Respondents Nos. 1, 2 and 3 only. Prima facie the administrative order granting maintenance particularly when in a proceeding held before the Additional Judicial Magistrate, First Class, Giddalur (A.P.) in a proceeding under Section 125, the learned Court has already granted maintenance, in our considered view, may not be sustainable. Subject to hearing the respondents, for the present, we direct that recovery in pursuance to the impugned order dated 21.11.2021 (Annexure A-1) shall remain stayed subject to the respondents recovering the amount as directed by the learned Magistrate and the applicant agreeing to the same.

Let Notice be issued to the private Respondent No. 4. Process fee be filed within one week.

Respondents may file counter affidavit within four weeks. Rejoinder, if any, be filed within two weeks. List the matter on 12th April, 2023. Copy of the order be given 'Dasti'."

4. In the circumstances and facts of the instant case, we consider it appropriate to make the order dated 20.01.2023 directing to the effect:-

"We direct that recovery in pursuance to the impugned order dated 21.11.2021 (Annexure A-1) shall remain stayed subject to the respondents recovering the amount as directed by the learned Magistrate and the applicant agreeing to the same."

absolute and it is so directed. The OA 166/2023 is disposed of accordingly.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)