

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

OA 815/2019 with MA 1977/2020

In the matter of:

Cdr SK Singh (Retd)

... Applicant

Versus

Union of India and others

... Respondents

For Applicant : Mr. Kustubh Singh, Advocate
For Respondents: Dr. Vijendra Singh Mahndiyan,
Advocate

CORAM:

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

MA 1977/2020

This is an application filed on behalf of the respondents for condonation of delay of **75** days in filing the counter affidavit.

In view of the reasons explained in MA and in the interest of justice, the MA 1977/2020 is allowed and the delay in filing the counter affidavit is condoned.

OA 815/2019

1. Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred

to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under:

“1. Issue appropriate directions to the respondents for paying the Interest accrued upon the arrears to the Applicants at the rate of 18 per cent per annum.

2. Pass any such further order as the Hon'ble Tribunal may deem fit and proper in the fact of the matter.”

2. The facts of the case in brief are that the applicant was commissioned in the Indian Navy on 01.01.1982 and retired from service on 31.01.2007. During his tenure, the applicant was deputed to Russia as a member of the Overseeing Team for the period from 23.06.2000 to 07.05.2004, which attracted the component of Foreign Allowance to be paid to the applicant along with other officers deputed therein. However, this additional component was never paid in its entirety during the deputation of the applicant, and the outstanding arrears of allowance amounting to Rs. 15,82,192/- was eventually credited to the applicant only on 30.08.2018.
3. Since the payment of the arrears of the Foreign Allowance for the period from 23.06.2000 to 07.05.2004 was fulfilled

by the respondents only after a delay of more than 14 years, but was devoid of any interest component for the delayed payment, the applicant has filed the instant OA seeking the payment of the interest component on the arrears.

CONTENTIONS OF THE PARTIES

4. The learned counsel for the applicant submitted that the applicant, during his tenure in the Indian Navy, was posted as a member of the Warship Overseeing Team (WOT) at St. Petersburg, Russia, in harsh sub-zero climate, from June, 2000 to May, 2004. The learned counsel argued that despite the applicant's entitlement to the component of Foreign Allowance, the same for this period was not paid to the applicant in its entirety until August, 2018.
5. The learned counsel for the applicant submits that the applicant, in the meantime, had filed multiple representations and queries for the payment of the outstanding dues/arrears of Foreign Allowance. However, the applicant did not receive the dues/arrears until August 2018, i.e. after an inordinate and gross delay of more than 18 years of him being deputed to Russia. Furthermore, the counsel for the applicant also stresses that even the said delayed payment of the outstanding dues/arrears by

respondent no. 3 was devoid of any interest component. It is the case of the applicant that due to this long delay in payment, his family had to endure economic hardship until the time the applicant had returned from his deputation at Russia.

6. In furtherance of his contentions regarding the payment of interest on the arrears, the learned counsel for the applicant relies on several cases, such as **State of Andhra Pradesh v Dinavahi Lakshmi Kameswari** [Civil Appeal No. 399 of 2021 decided by the Hon'ble Supreme Court of India], **Ram Janam Singh v Union of India & Ors** [WP (C) 1478 of 2014 decided by the Hon'ble High Court of Delhi], etc.
7. *Per contra*, the learned counsel for the respondents contended that the present OA is not admissible due to the non-exhaustion of remedies by the applicant before approaching this Tribunal.
8. With respect to the merits of the case, the learned counsel for the respondents stressed that the payment of Foreign Allowance due to the applicant was credited to him on 30.08.2018, i.e. within one month of the issuance of the sanction by the Government of India *vide* letter bearing no.

FM/5733/327/US(MP)/D(N-II)/17 dated 31.07.2018. It is further highlighted that the aforesaid letter does not mention about any payment of interest to be made to the applicant. As such, it is the respondents' case that they have duly paid the amount in accordance with the said letter within a month of its issuance, and there neither exist any delay nor any claim for the payment of interest on the outstanding arrears which were due to the applicant.

ANALYSIS

9. We have heard the learned counsel for the parties and have perused the record.
10. We find that the applicant has duly been paid the Foreign Allowance in its entirety on 30.08.2018, and is now simply pressing for the grant of interest on the delayed payment of the Foreign Allowance in the present OA. Therefore, for the sake of clarity, it is pertinent to mention here that the present OA is not about the entitlement of the applicant to Foreign Allowance, as the same has been duly paid to the applicant by the respondents, albeit after a delay of more than a decade of his deputation.

11. It is undisputed that the applicant was deputed at Russia for a period from June, 2000 to May, 2004; however, the component of Foreign Allowance with regard to his deputation was not granted in its entirety to the applicant by the respondents up until August, 2018, i.e. after a decade of his retirement from service on 31.01.2007 as well as after more than 14 years of his return from the deputation at Russia. *Prima facie*, it is appalling to see that the applicant, being an ex serviceman, was denied of his rightful payment by the government even after having served in the Indian Navy for more than 25 years.

12. Apart from targeting the admissibility of the present OA, the respondents have not given any justification for such gross delay in making the payment of arrears to the applicant except the fact that the Government of India has issued the sanction only on 31.07.2018 *vide* their letter bearing no. FM/5733/327/US(MP)/D(N-II)/17, to which the respondents have duly complied within a time period of one month.

13. While the issuance of the abovementioned sanction letter by the Government of India took place only on 31.07.2018, it an aspect which stands wholly attributable to the

respondents. The gross delay in issuing the sanction letter itself is a fact which can neither be neglected nor be ascribed to the applicant. It becomes moresoever crucial to note that as per the detailed table attached by the respondents as Annexure R-1 in their counter-affidavit, a significant portion of the Foreign Allowance has already been paid to the applicant for his deputation for the period from 23.06.2000 to 07.05.2004; however, the entirety of the component was yet to be paid. In this backdrop, since the respondents have already paid some portion of the component on Foreign Allowance, it is difficult to comprehend as to why there was a withhold on the payment of the rest of the component, which in the case of the applicant amounted to Rs. 15,82,192/-, for more than a decade. Thus, the severe administrative lapse for such delayed payment by more than a decade on the part of the respondents cannot be ignored, and the applicant cannot be made to suffer without any compensation for the same.

- 14.** With respect to the respondents' contention about the non-exhaustion of remedies by the applicant, it is noteworthy that the applicant has time-and-again made several representations to different authorities, which includes an

RTI application dated 09.12.2008 seeking clarification/information regarding the interest component on the payment of arrears received by him. It is nowhere seen that the applicant was sleeping over his entitlement of Foreign Allowance; rather, the applicant has been very proactive to pursue his matter. It is only after the unsatisfaction of the applicant by the response received from the respondents that he has preferred the present OA.

- 15.** We, therefore, are of the opinion that the applicant is entitled to the grant of interest on the delayed payment on part of the respondents towards arrears of Foreign Allowance.

CONCLUSION

- 16.** In view of the aforesaid analysis, the OA 815/2019 is allowed to the extent that we direct the respondents to pay to the applicant simple interest @ 8% on the amount of delayed payment towards the arrears of Foreign Allowance from May, 2004 till the date of actual payment. The respondents are further directed to comply with the aforesaid directions within three months from the date of receipt of copy of the order, failing which further interest @

8% per annum till the date of payment of the interest, as directed hereinabove, shall accrue.

17. Consequently, Miscellaneous Application(s), if any, stand disposed off accordingly.

18. There is no order as to costs.

Pronounced in the open Court on the ^{HK} 2th day of November, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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