

#5

**COURT NO. 2, ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
CA 4/2012 in OA No. 468/2011**

IN THE MATTER OF :

Ex Nb Sub Rajender Pal Singh (SKT)

..... Petitioner

VERSUS

Union of India &amp; others

.....Respondents

CORAM

HON'BLE MR. JUSTICE N.P.GUPTA

HON'BLE LT. GEN. S.S. DHILLON

**Dated: 15.01.2013**

Present: Mr. N.K. Srivastava Adv proxy for Mr. BP Shukla, Counsel for the applicant.  
Col. Arun Sharma for respondents.

Col. Sharma informs that the order sought to be implemented being judgment dated 14.05.2012 has been complied with and in that regard has produced Army HQ letter dated 07.01.2013.

A perusal of this letter shows that thereby sanction has been accorded to reinstate the petitioner w.e.f 01.12.2011 in the rank of NB Sub SKT with all consequential benefits, and to complete his ESL upto 08.01.2013. Then in para 2 by referring to letter dated 02.12.2008 the petitioner is required to deposit all terminal benefits paid by the Government on discharge, and on confirmation thereof pay and allowances from the date of discharge upto the date of reinstatement will be adjusted. Then in para 4 it is mentioned that Audit authorities will work the amount to be paid to the individual consequent to his reinstatement, and the details thereof be intimated to the Headquarters for floating separate sanction, and getting the charged expenditure noted by MoD (Fin) Def, before release of payment to the individual.

As we get it from judgment dated 14.05.2012, and this letter, that the petitioner was to serve only upto 08.01.2013. Obviously, the letter has been issued much belatedly, and it appears that it was in spirit to ensure that the petitioner is not actually reinstated, and the time is consumed in office procedures only. Be that it may.

The fact remains that the term of the petitioner stands completed on 08.01.2013. In that view of the matter now the matter rests only in the realm of making calculations of the emoluments payable to the petitioner for the period 01.12.2011 to 08.01.2013, and consequential terminal benefits to be recalculated, taking his service from the initial enrolment upto 08.01.2013. For this limited purpose, to insist on the petitioner to deposit back the terminal benefits received by him would be much too arduous an exercise, to be insisted upon qua the petitioner. We may not hesitate in noticing same bitter experiences of this tribunal, where in such circumstances, the individual had to deposit the amount back running into few lakhs, and then had to run after receiving his dues for years to years together. Those experience make us wiser.

And therefore, it is directed that instead of insisting on physical deposit of the amount by the petitioner back and then making calculations and then paying to the petitioner, all this calculation exercise be undertaken by the concerned authorities, including Audit authorities, and the amount to which the petitioner may consequentially be additionally entitled to get be calculated, and be paid to the petitioner, now within a period of three months from the date of receipt of certified copy of this order, failing which that amount will carry interest @ Rs.12 % per annum from 08.01.2013 till the actual payment to the petitioner.

The CA is disposed off accordingly.

Copy of this order be given dasti as prayed.

**S.S. DHILLON**  
Administrative Member

**N.P. GUPTA**  
Judicial Member

**Dated: 15.01.2013**

brh