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Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI
MISC. APPLICATION NO.166 OF 2019 (E) AND M.A. NO.22 OF 2022
IN
ORIGINAL APPLICATION No. 33 of 2015

Hari Shankar R No.500194F	..	Applicant.
-versus-		
Union of India and Ors.	..	Respondents.

Mr. A.P. Singh, Advocate, for applicant.
 Mr. A. J. Mishra, Advocate, for respondents.

**CORAM: SHAILENDRA SHUKLA, MEMBER (J) &
 VICE ADMIRAL ABHAY RAGHUNATH
 KARVE, MEMBER (A).**

DATE : 2nd February 2023.

P.C.

Heard submissions of learned counsel for applicant and learned counsel for the respondents.

2] Learned counsel for the applicant submits that order dated 29.03.2019 of this Tribunal to regulate the promotion of the applicant in accordance with unamended paras 3, 4 and 5 of Appendix XV of NI 2/96 has not been implemented in letter and spirit.

3] Learned counsel for applicant relies upon the case of Harendra Singh (WP No. 1019 of 2009 filed in Bombay High Court and disposed off by order dated 09.11.2009). Ld Counsel for the applicant submits that in order of this Tribunal dated 29.03.2019 there is reference to the Harendra Singh case and applicant's case was also

decided in same manner but respondents have not granted him the same benefits.

4] On examination of the Table at para 5(a) of the compliance affidavit dated 26.12.2022, we find that there is no difference in the promotion time lines in case of Harendra Singh and applicant. The sailor has been promoted to ERA5 on 06.02.2010 i.e. 2 ½ years after his enrolment on 03.08.2007. Harendra Singh was also promoted to EA(P)5 in 2 ½ years. Subsequently the gap interval between successive promotions for both Harendra Singh and the applicant are the same. Thus, we find that the order dated 29.3.2019 has been fully complied with in letter and spirit.

5] With regard to costs, learned counsel for respondents submits that the order was complied within the given time i.e. after disposal of Special Leave Petition filed in the Hon'ble Supreme Court on 08.01.2021. This AFT order dated 29.03.2019 was thereafter implemented on 20.01.2021. We are satisfied with this submission and hence cost is waived.

6] At this stage, learned counsel for applicant makes oral submission and seeks leave to appeal against this order. We find that there is no point of law of general public importance involved and hence request for leave to appeal is rejected in accordance with Section 31 of the AFT Act, 2007.

7] With this, M.A. Nos. 166 of 2019 and M.A.No.22 of 2022 are finally disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Shailendra Shukla)
Member (J)