

RESERVED
(Court No 2)

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

Original Application No. 875 of 2021

Wednesday, this the 22nd day of November, 2023

**"Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Maj Gen Sanjay Singh, Member (A)"**

Sanjay Kumar Singh (JC-560159X Ex Sub Maj/Hony Capt),
son of Rajeshwar Singh, resident of House No 549/154/1,
Bara Barha, Alambagh, Lucknow (UP)-226005.

.....Applicant

Ld. Counsel for the: **Shri Yashpal Singh**, Advocate
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence,
Central Secretariat, New Delhi-110001.
2. Officer-in-Charge Records, The Bihar Regiment, PIN-
908765, C/o 56 APO.
3. Principal Controller of Defence Accounts (Pension),
Draupadi Ghat, Prayagraj-221014.
4. Joint Controller, Pay Accounts Office (Other Rank), the
Bihar Regiment, Danapur Cantt-801503.
5. Branch Manager, State Bank of India, Chandar Nagar
Branch, Alambagh, Lucknow.

..... Respondents

Ld. Counsel for the: **Shri Sunil Sharma**, Advocate
Respondents

ORDER

1. This instant Original application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 by which he has sought the following reliefs:-

- (i) Issuing/passing of an order directing the respondents to refund Rs 4,16,238/- debited from the Pay Account of the applicant while finalizing his credit balance and pensionary benefits at the time of retirement with effect from 30.11.2020, along with interest and within a stipulated time.*
- (ii) Issuing/passing an order directing the respondents to finalize and pay the pending LTC claims and Transfer Grants in terms of the letter dated 06.09.2020 (Annexure No 3 to the original application).*
- (iii) Issuing/passing any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.*
- (iv) Allowing this Application with cost.*

2. Brief facts of the case are that the applicant was enrolled in the Army on 10.12.1986. During the course of his service he was promoted to the rank of Subedar Major and was discharged from service on 30.11.2020 (AN). He was granted service pension w.e.f. 01.12.2020. Grievance of the applicant is that leave travel concession (LTC) for the years 2012, 2013, 2016 and 2020 and transfer grant for January and November 2020 were not paid to him. Prior to discharge from service, claim was submitted to Record Office on

06.09.2020, but it was not paid despite repeated requests. While making final settlement of account (FSA), an amount of Rs 4,16,238/- was debited from his pay account towards various allowances viz, HRA, HAUCS, TFRGTS, TPTL, LTC, CEA, CILQ, SCCIA and CFAA. Feeling aggrieved, complaint dated 26.12.2020 was submitted by the applicant to Record Office which was further submitted to PAO (OR) on 13.01.2021. During the pendency of this O.A., a clarification to this effect was given by PAO (OR) on 08.02.2022 and 09.03.2022 admitting some of the allowances and giving detailed response to queries made. Being dissatisfied, applicant has filed this O.A.

3. Learned counsel for the applicant submitted that during service period applicant was entitled for payment in lieu of LTC for the years 2012, 2013, 2016 to 2020 and Part-II Orders to this effect were published. In addition to above, applicant is also entitled to transfer grant for January and November, 2020 but the said claims are still pending. It was further submitted that at the time of finalizing FSA, an amount of Rs 4,16,238/- has been debited from his pay account in the month of November, 2020 against HRA,

HAUCS, TFRGTS, TPTL, LTC, CEA, CILQ, SCCIA and CFAA which is illegal and arbitrary.

4. Learned counsel for the applicant further submitted that against illegal recovery, applicant had submitted complaint dated 26.12.2020 which was forwarded to PAO (OR) vide letter dated 13.01.2021 but no action has so far been taken to resolve the issue. He pleaded for grant of his dues and refund of illegal recovery made by the respondents.

5. Per contra, learned counsel for the respondents submitted that on completion of qualifying service, applicant being discharged from service w.e.f. 30.11.2020 (AN) was paid pensionary benefits vide PPO dated 05.11.2020. He submitted a personal application dated 26.12.2020 regarding illegal recovery of Rs 4,16,238/- through FSA. On receipt of application, details of recovery were sought from PAO (OR) vide letter dated 13.01.2021 which was replied by them vide letter dated 08.02.2022 giving reasons for recovery.

6. Learned counsel for the respondents further submitted that during the pendency of O.A., an amount of Rs 1,82,312/-, which was erroneously recovered from the applicant with regard to HRA, has been paid/refunded to the applicant on

09.03.2022 and for other reliefs applicant has been apprised reasons for recovery of amount. He pleaded for dismissal of O.A. stating that amount due to the applicant has already been refunded.

7. Heard Shri Yashpal Singh, learned counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents and perused the record.

8. The undisputed facts of the parties are that applicant was enrolled in the Army on 10.12.1986 and was discharged from service w.e.f. 30.11.2020 (AN). He was granted service pension vide PPO No 171202000804-0100 dated 05.11.2020. Prior to discharge from service, certain observations with regard to non payment of LTC and Transfer Grant were submitted on 06.09.2020 as per Appendix 'A' to AO 32/80.

9. While issuing FSA, a sum of Rs 4,16,238/- was debited to applicant's account in lieu of various allowances viz HRA, HAUCS, TFRGTS, TPTL, LTC, CEA, CILQ, SCCIA and CFAA. Based on letter dated 06.09.2020, Records asked clarification from PAO (OR) to which PAO (OR) submitted their reply vide letter dated 08.02.2022 mentioning therein all details related to recovery of amount. Having perused aforesaid letter, we

find that recovery on various counts is admissible/not admissible as under:-

(i) CEA. Allowance to this effect is not payable to child below five years of age. The amount was recovered solely on the ground that amount paid was related to child being below five years of age.

Note : Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and pay CEA, if any, due to the applicant.

(ii) TPTL. Applicant is not entitled to TPTL during the period he was admitted in hospital, therefore, allowance to this effect was rightly recovered.

(iii) HAUCA. Applicant attended course for the period 19.04.2008 to 30.05.2008, hence he being not entitled to HAUCA for this period, allowance to this effect was rightly recovered. HAUCA for the period 02.12.2008 to 09.12.2008 amounting to Rs 2409/- was recovered on the ground that Part-II Order was not available.

Note : Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and publish HAUCA, if any for the said period.

(iv) CILQ. Amount pertaining to CILQ was recovered on the ground that due process was not followed in publication of Part-II Order.

Note: Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and publish fresh Part-II Order clearly mentioning date of posting in/out for the period 01.07.2005 to

22.08.2005, 01.07.2006 to 30.08.2007 and 05.02.2011 to 30.12.2012.

(v) SCCIA. Recovery to this effect was rightly made as applicant was admitted in hospital for the period 11.08.2003 to 04.12.2003.

(vi) CFAA. Recovery to this effect was due to applicant being on course for the period 25.04.2008 to 30.05.2008.

(vii) LTC. Recovery to this effect was made on the ground that applicant was granted did not avail leave for the year 2012 and also publication of Part-II Order after a gap of two years.

Note: Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and publish LTC afresh after getting time barred sanction.

(viii) TFRGTS. Applicant was granted TFRGTS on 31.07.2019. He was again granted TFRGTS on 13.01.2020 within six months, which being not entitled has rightly been recovered. Also on applicant's single move he was entitled to TFRGTS @ 80% of basic pay whereas he was granted TFRGTS @ 100% of basic pay.

(ix) HRA. A sum of Rs 2,12,662/- was recovered during FSA, however, a sum of Rs 1,82,312/- has been refunded to the applicant on 09.03.2022, therefore, there is balance of Rs 30,350/- on account of HRA for the period 01.07.2015 to 20.07.2015.

Note: Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and grant HRA for the period 01.07.2015 to 20.07.2015, if due. It

is pertinent to mention that HRA for the above said period cannot be Rs 30,350/-, therefore, there is a need to scrutinise the details thoroughly.

(x) Recovery of Pay Book. Prior to the year 2011 personnel were being granted pay and allowances through Pay Book and subsequent to change of this system, some serial numbers were left for adjustment which being adjusted at the time of FSA resulted in recovery of Rs 12,800/- and bonus of Rs 614/-.

Note: Records and PAO (OR), the Bihar Regiment are directed to scrutinize the details and pay amount to applicant, if due.

10. From the aforesaid, it is clear that HRA amounting to Rs 1,82,312/-, which was erroneously recovered, has been credited to applicant's account on 09.03.2022. For rest of the amount due to the applicant, Records and PAO (OR), the Bihar Regiment are directed to scrutinise the details afresh and pay his entitled dues within a period of three months on receipt of a certified copy of this order. Default will invite interest @ 8% p.a.

11. With the aforesaid direction, O.A. is disposed off.

12. No order as to costs.

13. Miscellaneous application(s), if any, stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated:22.11.2023

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(Justice Anil Kumar)
Member (J)

RESERVEDCourt No 2

Form No. 4

{See rule 11(1)}
ORDER SHEETARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW

O.A. No. 875 of 2021

Sanjay Kumar Singh

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Ors

Respondents

By Legal Practitioner for Respondents

| Notes of the Registry | Orders of the Tribunal |
|-----------------------|---|
| | <p data-bbox="505 1723 639 1757"><u>22.11.2023</u></p> <p data-bbox="505 1757 1114 1798"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="505 1798 1114 1838"><u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p data-bbox="597 1897 876 1932">Judgment pronounced.</p> <p data-bbox="597 1951 1037 1986">O. A. No. 875 of 2021 is disposed off.</p> <p data-bbox="597 2005 1398 2040">For orders, see our judgment and order passed on separate sheets.</p> <p data-bbox="505 2147 873 2217">(Maj Gen Sanjay Singh) Member (A)</p> <p data-bbox="505 2217 574 2239"><i>rathore</i></p> <p data-bbox="1198 2147 1500 2217">(Justice Anil Kumar) Member (J)</p> |

