

Court No.1

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

O.A.No. nil of 2017

Thursday, the 19th day of April, 2018

Hon'ble Mr. Justice SVS Rathore, Member (J)
Hon'ble Air Marshal BBP Sinha, Member (A)

No. 4059205 CHM Girish Chandra, son of late Sri Mahima Dutt, resident of village Sibbu Nagar, Post Office Kotdwar, District Pauri Garhwal.

.....Applicant

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

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi-110011
2. Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad.
3. Commanding Officer, Garhwal Records Rifles Office, Lance Down, Pauri Garhwal (U.K.)

.....Respondents

Ld. Counsel for the : **Shri Virendra singh, CGSC**
Respondents Assisted by Maj Salen Xaxa, OIC Legal Cell.

ORDER (Oral)

1. This case was listed today for hearing on admission.

Learned counsel for the parties were heard.

2. By means of this OA, the applicant has made the following prayers:-

“ (A) To pass an order or direction commanding the respondents to grant the interest @ 12% per annum on arrears of disability pension of the applicant from the date of sanction of disability pension i.e. 24.08.1998 till actual realization of the aforesaid amount.

(B) To pass an order which this Hon’ble Tribunal deems fit and just under the facts and circumstances of the case, in favour of the applicant.

(C) Allow the Original application with exemplary cost.”

4. It is submitted that the applicant had made a claim for disability pension before the competent authority, but when the same was not decided, he preferred a writ petition bearing No. 977(S/S) of 2009 before the Hon’ble High Court of Uttarakhand at Nainital, which was transferred to this Tribunal and registered as TA No. 63 of 2013. The said TA was disposed of vide order dated 04.12.2015 with a direction to the respondents to reconsider the applicant’s case with regard to the disability by a Re-survey Medical Board expeditiously within a period of two months from the said date, and that in case the applicant was found to be suffering from the same disability, the respondents should pay the disability pension as per rules within four months from the date of receipt of result of the Re-Survey Medical Board. The aforesaid order dated 04.12.2015 was duly communicated to the respondents, but when no heed was paid, the applicant filed an Execution Application bearing No. 123 of 2016. The respondents then issued a PPO and sanctioned the disability pension to the applicant from 24.08.1998 onwards.

Thereafter the Execution Application was disposed of vide order dated 21.02.2017, which reads as under:

“Learned counsel for the respondents states that in compliance of the order of the Tribunal dated 04.12.2015 passed in T.A.No. 63 of 2013, necessary PPO has been issued, a copy of which shall be provided to the learned counsel for the applicant during course of the day.

Accordingly, it is directed that the bank concerned shall release the outstanding dues to the applicant within one month from the date of presentation of a certified copy of this order alongwith representation.

Subject to the above, this Execution Application is disposed of accordingly.”

5. Learned counsel for the applicant has submitted that the applicant has received the payment, but not within the period stipulated by the Tribunal, hence he is entitled to interest on delayed payment of the amount. The applicant has claimed interest at the rate of 12% per annum from the date of sanction of disability pension i.e. 24.08.1998.

6. **Per contra**, it is submitted on behalf of the respondents that virtually this OA is a fresh application for execution of the Tribunal's order, which is not maintainable. It is further submitted that from a perusal of the Tribunal's order dated 04.12.2015 itself, it is clear that the Tribunal had not granted interest in favour of the applicant, hence the applicant cannot claim interest now at this stage on the amount, which has already been paid to him.

7. We find substance in the submission made on behalf of the respondents. The applicant had raised the claim for disability pension. Vide order dated 04.12.2015 passed in TA No. 63 of 2013, the respondents were directed to re-assess to the applicant's disability by holding a Re-survey Medical Board and thereafter to sanction disability pension to him as per rules within a stipulated period. Admittedly, the Re-Survey Medical Board has been held and the applicant has been sanctioned disability pension. The Execution Application No. 123 of 2016 filed by the applicant was disposed of vide order dated 21.02.2017 with a direction to the concerned bank to release the outstanding dues to the applicant in pursuance of the requisite PPO issued to him. There is no denying of fact that in pursuance of the said PPO, the applicant has received the payment though with some delay. There was no direction by the Tribunal that in case of delayed payment, the applicant shall also be entitled to interest. We are of the considered view that on the same cause of action, this subsequent OA is not maintainable.

8. Accordingly, this OA is hereby **dismissed** in *limine*.

(Air Marshal BBP Sinha)
Member (A)

(Justice SVS Rathore)
Member (J)

Dated: April 19, 2018

LN/-