

E-Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 614 of 2021****Tuesday, this the 26<sup>th</sup> day of April, 2022****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**No. 625689R Corporal Shiv Singh Yadav  
S/o Shri Mahadev Singh Yadav  
R/o Village – Gurdahi Khurd, Post Office – Sikandara,  
District – Kanpur Dehat (UP) – 209125

..... Applicant

Ld. Counsel for the Applicant: **Shri V.P. Pandey**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Air Staff, Air Headquarters, Vayu Bhawan, New Delhi – 110011.
3. Air Officer-in-Charge, Air Force Record Office, Subroto Park, New Delhi – 110010.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj-211014.

..... Respondents

Ld. Counsel for the Respondents : **Shri Ashish Kumar Singh**,  
Central Govt Counsel**ORDER**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- “(a) To issue/order or direction to give effect to the order dated 22 March 2016 contained in Annexure No. A-1 to this Original Application.

- (b) To issue/order or direction to pay arrears of pension accrued till date along with interest and other pensionary benefits.
- (c) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.
- (d) Allow this application with exemplary costs."

2. The brief facts of the case are that applicant was enrolled in the Indian Air Force on 03.07.1980 and was discharged from service on 05.08.1999. Earlier, the applicant has filed OA No. 133 of 2011 before this Tribunal wherein this Tribunal has directed the respondents to decide representation of the applicant in accordance with law vide order dated 25.08.2015. Accordingly, applicant was communicated by the respondents that his notional promotion to the rank of Sergeant (Sgt) and subsequent fixation of his pension and other pensionary benefits has been accorded w.e.f. 01.12.1992 but so far no action has been taken by the respondents to implement the order. Being aggrieved, the applicant has filed the present Original Application for grant of arrears of pension and other pensionary benefits in the rank of Sgt.

3. Learned counsel for the applicant submitted that earlier the applicant has filed O.A. No. 133 of 2011 before this Tribunal for grant of promotion to the rank of Sergeant w.e.f. 01.12.1992 and arrears of pensionary benefits wherein this Tribunal has directed the respondents to decide representation of the applicant in accordance with law vide order dated 25.08.2015. Accordingly, applicant was communicated by the respondents that his notional promotion to the

rank of Sergeant (Sgt) has been accorded w.e.f. 01.12.1992 and subsequent fixation of his pension and other pensionary benefits on notional promotion will be granted to him. Thereafter, on 22.03.2016, applicant was communicated by the respondent No. 3 for grant of pensionary benefits but so far no action has been taken to implement the order. The applicant could not approach this Tribunal under impression that arrears arising out of notional promotion will be paid in due course on time but inaction of respondents to give effect their order deprives the applicant from receipt of his dues. He pleaded for grant of arrears and pensionary benefits in the rank of Sgt. alongwith interest.

4. Learned counsel for the respondents submitted that applicant's promotion was held up due to pendency of a criminal case against him. On 25.08.1998, the applicant was acquitted by the Trial Court. Thereafter, necessary POR for promotion to the next higher rank was published and his promotion to the rank of Sgt was released w.e.f. 01.12.1992. His promotion was withheld as per Air Headquarters letter dated 03.03.1993 as a criminal case was pending against him in District Court of Kanpur Dehat. The Court acquitted the applicant on 25.08.1998, however, the applicant was discharged from service on 25.08.1999 on habitual offender grounds.

5. Learned counsel for the respondents further submitted that applicant filed OA No. 133/2011 before this Tribunal praying grant of promotion and subsequent benefits which was decided by this Tribunal on 25.08.2015 and accordingly, direction to grant notional

promotion in the rank of Sgt and subsequent fixation of his pension and other pensionary benefits was passed by the competent authority. He also submitted that on receipt of the case file dated 14.03.2022 along with instant O.A., NE POR, LPCDS, RCSR and authority for granting notional promotion to the rank of Sgt. w.e.f. 01.12.1992, the case has been processed and forwarded to JCDA (AF) for audit verification, arrears will be paid after audit verification.

6. Heard learned counsel for the parties and perused the relevant documents available on record.

7. We find it surprising that despite their own letter of 15.03.2016 which was addressed to Oi/c AFRO to implement the order of this Tribunal dated 25.08.2015, nothing has been done for so long. We now find that action for grant of pensionary benefits to the applicant on notional promotion to the rank of Sgt is still under process and some audit verification is pending to be completed as admitted by the respondents in their counter affidavit.

8. In view of above, Original Application is **allowed**. The respondents are directed to take action forthwith and pay pensionary benefits to the applicant in the rank of Sgt. from the date of his notional promotion, i.e. w.e.f. 01.12.1992 alongwith interest @ 8% per annum. Let this exercise be completed within a period of four months from the date of receipt of certified copy of the order, failing which respondents shall pay compound interest @ 10% to the applicant **on interest amount also**, as there has been an unwarranted delay on implementation of the earlier Tribunal order of 25.08.2015.

9. No order as to costs.

10. Pending Misc. Application(s), if any, shall be treated to have been disposed off.

**(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)**  
**Member (A) Member (J)**

Dated: April, 2022

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