

**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1 (E. Court)**

**O.A. No. 3 of 2018**

**Vijay Singh**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>07.03.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">Heard Shri Vinay Pandey, Ld. Counsel for the applicant and Shri Sunil Sharma, learned counsel for the respondents.</p> <p style="text-align: center;">This Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-</p> <p>“(a) Issue/pass an order or direction of appropriate nature to the respondents to release the salary of applicant with effect from December 2016.</p> <p>(b) Issue/pass an order or direction of appropriate nature directing to the respondents to pay interest @ 18% per annum over the unpaid amount of salary.</p> <p>(c) Issue/pass an order awarding compensation of appropriate amount in favour of the applicant on account of financial hardship faced by the applicant on account of withholding of salary without any fault of the applicant.</p> <p>(d) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.</p> <p>(e) Allow this application with costs.”</p> <p>Brief facts of the case are that applicant was enrolled in the Army on 05.01.2000. The applicant while posted with 868 Engineering Works Section was required to be present as a witness in a Court of Inquiry. The applicant was under posting from 868 Engineering Works Section to 65 Engineers Regiment vide BEG Records order dated 26.09.2016. On completion of Court of Inquiry, 65 Engineers Regiment was informed that applicant had been dispatched on permanent posting-cum-promotion cadre course and will report to said unit on termination of promotion cadre course. The applicant had been promoted as Naib Subedar wef. 27.09.2017 but his pay and allowances were stopped illegally by Pay Account Office on the direction of 65 Engineers Regiment, declaring the applicant was absent without leave. Being aggrieved,</p>

the applicant has filed the present Original Application for release of his salary which has been stopped by pay Account Office illegally w.e.f. December 2016.

Learned counsel for the applicant submitted that applicant while posted with 868 Engineering Works Section of Garrison Engineer was required to be present as a witness in a Court of Inquiry. The applicant was under posting from 868 Engineering Works Section to 65 Engineers Regiment vide BEG Records order dated 26.09.2016. On completion of Court of Inquiry, 65 Engineers Regiment was informed that applicant had been dispatched on permanent posting-cum-promotion cadre course and would report to said unit after completion of promotion cadre course. The applicant has been promoted as Naib Subedar wef. 27.09.2017 but his pay and allowances were stopped illegally by Pay Account Office on the direction of 65 Engineers Regiment, declaring the applicant as absent without leave.

Learned counsel for the applicant further submitted that applicant approached the respondents to release his pay and allowances but no action was taken by the respondents and he was not getting salary since December 2016. He pleaded for release of pay and allowances forthwith as there was no fault of the applicant as he was attending promotion cadre at BEG Centre during the period for which he has been declared as absent without leave by 65 Engineers Regiment.

Learned counsel for the respondents submitted that applicant was enrolled in the Army on 05.01.2000. The applicant was posted with Garrison Engineer 868 Engineering Works w.e.f. 04.03.2014. The applicant was witness No. 13 in a Court of Inquiry (C of I) held with regard to fraudulent bills and disposal of CSD items to unauthorised persons by Havildar Kumar K of the unit. Thereafter, applicant was posted to 21 Engineer Regiment vide movement order dated 31.03.2016. In the convening order dated 05.05.2016, it was mentioned that Presiding Officer and Members of the C of I and the witnesses will not leave the station before finalization of C of I proceedings without prior concurrence. Accordingly, applicant's move was deferred till 31.08.2016. Thereafter, the movement order dated 22.12.2015 in respect of the applicant was cancelled vide BEG Records letter dated 26.09.2016 and a fresh posting order was issued to 65 Engineers Regiment vide Records letter dated 26.09.2016. On completion of C of I, GE, 868 Engineering Works informed 65 Engineer Regiment that C of I had been finalized and that the applicant who stands posted to that unit had been nominated to attend promotion cadre at BEG Centre, Roorkee commencing from 17.04.2017 to 27.05.2017 and therefore, applicant had been dispatched for permanent posting-cum-promotion cadre and after completion of promotion cadre, he would proceed on permanent posting to 65 Engineer Regiment.

Learned counsel for the respondents further submitted that 65 Engineer Regiment wrote a letter dated 21.11.2016 to BEG Records with a copy to Pay Account Office intimating that applicant had been declared absent without leave and accordingly, Pay Account Office had stopped his pay and allowances w.e.f. December 2016.

Today, during the course of hearing, learned counsel for the respondents submitted that salary of the applicant had been released alongwith arrears and applicant was being paid his pay and allowances regularly.

In view of aforesaid discussions/observations and as conceded by learned counsel for the respondents, we find that salary of the applicant which was stopped by the Pay Account Office, has been released and applicant is being paid his pay and allowances regularly. Since, the pay and allowances of the applicant were stopped illegally from December 2016 by the Pay Account Office and was released after a long period, applicant deserves interest on delayed payment made to him by the respondents.

Resultantly, Original Application is allowed. The respondents are hereby directed to pay an interest @ 6% per annum on delayed payment of salary to the applicant from due date, i.e. December 2016 till actual date of payment to the applicant. Respondents are also directed to comply with the order within a period of four months from the date of receipt of certified copy of the order. Default will invite an additional interest @ 8% per annum till actual payment.

No order as to costs.

Pending, Misc. Applications, if any, shall be treated to have been disposed off.

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

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