

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW
(CIRCUIT BENCH, NAINITAL)**

ORIGINAL APPLICATION No. 408 of 2019

Tuesday, this the 31st day of May, 2022

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

No. 14913614N Ex Hav & Hony Nb/Sub Jaspal Singh S/o late Madho Singh, R/o Village-Gaduna, Post Office-Khal, Tehsil-Pokhari, District-Chamoli (Uttarakhand) Pin Code No-246429.

..... Applicant

Learned counsel for the : **Shri MS Bhandari**, Advocate
Applicant

Versus

1. Union of India, through Secretary, Ministry of Defence, Central Civil Secretariat, New Delh110010.
2. Record Officer, The Record Office, The Mechanized Infantry Regiment, PIN No-900476, C/o 56 APO.
3. The Controller, the Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.) 211014.
4. State Bank of India, through Branch Manager, Brsanch Karanprayag, Distt-Chamoli (UK).

.....Respondents

Learned counsel for the : **Shri Rajesh Sharma**, Advocate
Respondents. Central Govt. Counsel

ORDER (Oral)

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

- (a) *Issue a direction to the respondents to pay/release the commutation amount of Rs 2,15,102/- + Rs 68,833/- total Rs 2,83,935/- (Rs Two Lacs, Eighty Three Thousand, Nine Hundred Thirty Five only) to the applicant which has wrongly been deducted/recovered from the applicant in this Pension Payment Order No S/CORR/41538/2014 alongwith interest @ 9% per annum from the date illegal deduction w.e.f. 23.07.2014 till the final payment is made to the applicant.*
- (b) *To summon the entire records of the applicant pertaining to the commutation amount i.e. Rs 2,83,935/- (Rs Two Lacs, Eighty Three Thousand, Nine Hundred Thirty Five only) which has wrongly been deducted/recovered from the applicant in his Pension Payment Order No S/CORR/41538/2014.*
- (c) *Issue any other relief to which the applicant is found entitled may also very kindly be granted to the applicant.*

2. Brief facts of the case are that the applicant was discharged from service on 31.12.2008 (AN) on completion of 24 years and 20 days service. He was granted service pension vide PPO No S/053917/2008 dated 17.11.2008. His pension was revised from time to time and commuted value of pension was also paid. However, due to system/programme error an amount of Rs Rs 2,15,102/- + Rs 68,833/- total Rs 2,83,935/- (Rs Two Lacs, Eighty Three Thousand, Nine Hundred Thirty Five only) has been excessively recovered from the applicant for which this O.A. has been filed.

3. Learned counsel for the applicant submitted that the applicant was discharged from service on 31.12.2008 and his service pension and commutation was notified as per the 5th CPC by the PCDA (P), Allahabad vide PPO No S/053917/2008

and commutation amount reflected in the said PPO was Rs 2,83,935/-. He further submitted that on declaration of 6th CPC the capitalized value of commutation in respect of the applicant was revised and subsequently the following PPOs were issued:-

S N o	PPO No	Amt	For	Read	Amt paid to indl	Amt deposited from Indl
1.	S/053917/2008	2,83,935	00	00	2,83,935	00
2.	S/Corr/136348/2009	00	5,67,870	68,0050	1,12,180	00
3.	S/Corr/031661/2010	00	680050	722800	42750	00
4.	S/Corr/41538/2014	00	722800	507698	00	215102
Total					438865	215102

4. His further submission is that in PPO No S/corr/41538/2014 the commuted pension mentioned is Rs 4,691/- and as per this amount the capitalized value of commuted pension would be amount commuted $\times 12 \times$ purchase value i.e. $4691/- \times 12 \times 9.019 = 5,07,698/-$. He further submitted that the commuted pension already paid to the applicant is Rs 4,38,865/-, therefore, the amount should have been increased by Rs 68,833/- but the respondents in a very illegal manner recovered Rs 2,15,102/- from the applicant. He further submitted that on 10.12.2016 respondent No 2 intimated the aforesaid aspect to respondent No 1 but till date nothing has been done in this regard. His further submission is that the applicant submitted a representation on 01.01.2018 praying therein about wrong recovery of 2,15,102/- to which on 21.06.2018 respondent No 3 intimated that this happened due

to error in the system/programming, therefore the amount got escalated. He submitted that a reply was also received from the respondents that the case was being examined thoroughly and further communication will follow. His submission is that even after protracted correspondence on the subject, commutation value of amount has not been granted to the applicant.

4. On the other hand, learned counsel for the respondents submitted that the applicant was enrolled in the Army on 12.12.1984 and discharged from service w.e.f. 31.12.2008 (AN) on completion of 24 years and 20 days service. Accordingly, service pension and commutation of the applicant was notified as per 5th CPC vide PPO No S/053917/2008 dated 17.11.2008 and commuted amount of Rs, 2,83,935/- was paid to the applicant. His further submission is that on declaration of 6th CPC capitalized value of commutation in respect of the applicant was revised and subsequently the following corrigendum PPOs were issued by PCDA (P), Allahabad:-

S N o	PPO No	Amt	For	Read	Amt paid to indl	Amt deposite d from Indl
1.	S/053917/2008	2,83,935	00	00	2,83,935	00
2.	S/Corr/136348/2009	00	5,67,870	68,0050	1,12,180	00
3.	S/Corr/031661/2010	00	680050	722800	42750	00
4.	S/Corr/41538/2014	00	722800	507698	00	215102
Total					438865	215102
Net amount paid to the applicant					2,23,763	

5. The respondents, however, admitted that due to error in system/programming amount got escalated and the same has

been reflected in the PPO No S/corr/136348/2009 and thus, due to error in the revised PPO No S/corr/41538/2014, a recovery of Rs 2,15,102/- has been reflected for which a case has already been taken up through CPPC, SBI, Chandni Chowk, New Delhi and PDA branch i.e. SBI, Karanprayag, Chamoli. He further submitted that the PDA has been advised to adjust and pay the difference, if not already paid.

6. We have heard learned counsel for the parties and perused the material placed on record.

7. It is not disputed that the applicant was discharged from service on 31.12.2008 (AN) and commuted value of pension was paid to him. On declaration of further CPPCs adjustments were made and while preparing due and drawn statement of account, a sum of Rs 2,15,102/- as excess amount was recovered from the applicant which has been conceded by the respondents in para 9 of their counter affidavit.

8. We have also observed that fact of excess recovery from the applicant has also been admitted by PCDA (P), Allahabad in their letter dated 21.06.2018 (Annexure I) addressed to the Chief Manager, State Bank of India, CPPC, Chandni Chowk, New Delhi and process to adjust the amount is in progress.

9. We observe that facts on record clearly indicate that Rs 2,15,102/- is due to be paid to the applicant which the respondents have conceded. We further observe that a sum of Rs 68,833/-, which as per the applicant has not been paid

to him, but as per PCDA (P), Allahabad letter dated 21.06.2018 it has been disbursed to him. Be that as it may, it is clear from the record that Rs 2,15,102/- + Rs 68,833/- (Total amount 2,83,935/-) is due to be paid to the applicant which shall be paid by the respondents along with 6% interest p.a. from 2014, if not already paid.

10. In view of the above, we direct the respondents to pay Rs 2,83,935/- to the applicant along with interest @ 6% p.a. with effect from the year 2014 within a period of 03 months from today. Default will invite interest @ 8% p.a.

11. O.A. is **allowed**.

12. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 31.05.2022

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