

**Court No.3****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****Ex A-77 of 2013 with M.A. No. 1454 of 2015 &  
M.A. No. 1517 of 2015 Inre T.A. No. 1407 of 2010**Wednesday, this the 14<sup>th</sup> day of October 2015**Hon'ble Mr. Justice D.P. Singh, Member (J)  
Hon'ble Air Marshal Anil Chopra, Member (A)**Ram Yagya Ojha, son of Sri Ram Naresh Ojha,  
Resident of Village-Sahajipur, P.O. Sangrampur  
District Sultanpur

.....Applicant

Ld. Counsel for : **Shri Sharad Pathak, Advocate**  
the Applicant

Versus

1. Union of India, through the Secretary Ministry of Defence, Government of India, New Delhi.
2. Chief of the Army Staff, New Delhi.
3. General Officer Commanding in Chief, South Command, Pune.
4. Commanding Officer, Bombay Engineer Group And Centre Training Battalion-2, Dighi Camp, Pune-15
5. Durgawati aged about 36 years daughter of Sri Jag Narain Pandey, resident of Village Gujipur, P.O. Purey Ojha, District Sultanpur.
6. Zila Sainik Kalyan Adhikari, Sultanpur.

.....Respondents

Ld. Counsel for the : **Shri D.S. Tiwari,**  
Respondents **Central Govt. Counsel**  
**assisted by Lt Col Subodh**  
**Verma, OIC Legal Cell.**

**ORDER(ORAL)**

1. Heard Ld. Counsel for the parties and perused the record.
2. The applicant has preferred this Execution Application for compliance of judgment and order dated 01.04.2013 of this Tribunal passed in T.A. No 1407 of 2010. Operative portion of the judgment and order is reproduced as under:-

*“In view of what has been discussed above, the T.A. is allowed, the impugned discharge order dated 07.06.2006 (Annexure 1-A to the writ petition) is hereby quashed. We direct the respondents to extend all consequential benefits to the petitioner, including salary and arrears of salary, if any, and also grant notional promotion if he eligible and entitled to which would have been granted to him, had he been in service till his actual date of superannuation. Entire exercise be undertaken within a period of four months from the date certified copy of the judgment is made available to the Ld. Counsel for the respondents.*

*No order as to cost.*

*sd.x.x.x.*

*(Lt Gen PR Gangadharan)*

*Member (A)*

*sd x. x. x.*

*(Justice B.N. Shukla)*

*Member (J)”*

3. On account of non compliance of order in letter and sprit the applicant has preferred the application under Section 29 of the Armed Forces Tribunal Act 2007. Submission of the Ld. Counsel for the applicant is that in spite of all efforts made, he could not

get the benefits of the order though more than 2 years have been elapsed.

4. Admittedly SLP has been filed against the order of Tribunal dated 01.04.2013. Ld. Counsel for the Respondents submits that SLP has been rejected by Hon'ble Apex Court on account of some delay. However no order of the Hon'ble Apex Court has been brought on record. The order of this Tribunal was not stayed by their Lordships. It is not justifiable on the part of the respondent to keep the matter pending merely because of pendency of SLP before the Honb'le Apex Court. It is not open to the Respondents to sit over the judgment of this Tribunal.

5. During the course of hearing OIC Legal Cell submits that the entire arrears and allowances have been paid. It has been submitted by the applicant that arrears have been paid but allowances are still to be paid. More than one year has elapsed but the dues have not been paid. This is sorry state of affairs on part of the respondents. Order should have been complied with within four months as directed by the Tribunal. Accordingly we allow the present Ex. A. and direct the respondents to make entire payment of allowances within a period of three month from today alongwith interest @ 10% per annum. Respondents shall make payment of interest @ 10 % after expiry of period of four months from the date of judgment of this Tribunal i.e. 01.04.2013 and when arrears were actually paid to the applicant. Further we impose cost of Rs 10,000/- on the respondents which shall be

deposited in Tribunal within 3 months. The applicant shall be entitled to withdraw the cost.

6. With the aforesaid observation we dispose of the Ex. A. with further directions to competent authority to recover within four months the amount of interest payable to the applicant from the salary of the person responsible for not making the payment to the applicant in compliance of judgment and order of this Tribunal. The matter may be brought in the notice of competent authority.

7. The Ex.A. stands disposed of.

**(Air Marshal Anil Chopra)**  
**Member (A)**

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**(Justice D.P. Singh)**  
**Member (J)**