

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

Court No. 1

O.A. No. 66 of 2018

Adesh Kumar

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p><u>28.10.2021</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></p> <ol style="list-style-type: none">1. Counter affidavit filed by the respondents is taken on record.2. Heard Shri V.K. Pandey and Shri Girish Tiwari, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondents.3. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:<ol style="list-style-type: none">(i) That this Hon'ble Tribunal may kindly be pleased to direct the opposite parties to revise the service pension of the applicant @ Rs. 18,000/- (Rs. Eighteen Thousand) p.m. w.e.f. 31.07.2016 in the interest of justice.(ii) Cost of application, counsel fees and ancillary expenses to the tune of Rs. 50,000/- be awarded to the applicants against the respondents.(iii) Any other beneficial relief which this Hon'ble Tribunal deems fit and reasonable be also awarded to the applicant against the respondents."4. Briefly stated facts are that applicant was enrolled in Indian Army on 05.07.1999 and was dismissed from service under the provisions of Rule 13 (3) III (v) of Army Rules, 1954, para 333 of Regulations for the Army, 1987 and Army Order 44/2001/DV for contracting plural marriage after rendering 08 years, 3 months and 19 days of service. However, as per the order of this Tribunal dated 09.02.2016, passed in OA No. 130 of 2014, the applicant was notionally reinstated in service w.e.f. 24.10.2007 and notionally discharged from service w.e.f. 31.07.2016 on completion of terms of engagement in the rank of Rfn. Accordingly, the applicant has been granted service pension with all consequential benefits for the rank of Sepoy w.e.f 01.08.2016 vide PCDA (P) Allahabad PPO dated 09.06.2017. The applicant preferred an application dated 02.09.2017 to the respondents for revision of his service pension but the

respondents have not revised the same. The applicant has filed the present Original Application to revise his service pension @ Rs. 18,000/- per month we.f. 31.07.2016.

5. Learned counsel for the applicant submitted that applicant has filed the present application against the illegal, arbitrary and unjust inaction of opposite parties in not revising the service pension of the applicant which should be Rs. 18,000/- per month as per letter dated 04.08.2016, 12.05.2017 and 11.09.2017 issued by the respondents but they are granting basic pension of Rs. 5,745/- per month w.e.f. 31.07.2016 for more than 19 years of service. He further submitted that it is violation of Article 14, 16 and 21 of the Constitution of India.

6. Per contra, learned counsel for the respondents submitted that applicant was dismissed from service under the provisions of Rule 13 (3) III (v) of Army Rules, 1954, para 333 of Regulations for the Army, 1987 and Army Order 44/2001/DV for contracting plural marriage after rendering 08 years, 3 months and 19 days of service. However, as per the order of this Tribunal dated 09.02.2016, passed in OA No. 130 of 2014, the applicant was notionally reinstated in service w.e.f. 24.10.2007 and notionally discharged from service w.e.f. 31.07.2016 on completion of terms of engagement in the rank of Rfn (Sepoy). Accordingly, the applicant has been granted service pension with all consequential benefits for the rank of Sepoy w.e.f 01.08.2016 vide PCDA (P) Allahabad PPO dated 09.06.2017. The applicant has filed the present Original Application for revision his service pension @ Rs. 18,000/- per month we.f. 31.07.2016. He submitted that applicant is getting correct service pension as per 7th CPC and no further revision is required. He pleaded for dismissal of O.A.

7. During the course of hearing, Shri Rajeev Tiwari, Account Officer, PCDA (P) Allahabad, present in the Court, submitted that applicant's service pension has been revised as per 7th CPC and applicant is presently getting basic pension @ Rs. 14,900/- per month (Basic Pay - Rs. 24,500/- + MSP – Rs. 5,200/- + Class Pay – Rs. 100/- = 29800. Basic Pension is calculated @ 50% of total pay i.e. $29800 \times \frac{1}{2} = 14,900/-$, hence, Basic Pension of the applicant has been correctly fixed @ Rs. 14,900/- + Dearness Relief, as per existing Govt. orders/rates. Therefore, applicant's contention that he is being granted basic pension @ Rs. 5,745/- per month w.e.f. 31.07.2016 is incorrect and his correct basic pension is Rs. 14,900/-.

8. Having heard the submissions of learned counsel of both sides and having gone through records, we find that applicant's basic pension @ Rs. 14,900/-, as per calculation shown to the Bench, has correctly been fixed by PCDA (P) Allahabad, which has been agreed to by learned counsel for the applicant also during the course of hearing.

9. In view of above, respondents are directed to ensure release of correct service pension to the applicant as per calculation given in para 7 above.

10. With aforesaid observation/direction, Original Application is disposed off finally.

11. No order as to costs.

12. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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