

E-Court No- 1

ARMED FORCES TRIBUNAL, REGIONAL
BENCH, LUCKNOW

Original Application No. 677 of 2020

Friday, this the 7th day of January, 2022

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

Army No. JC-480766H Ex Subedar (Hony Capt) Manbir Singh, S/o Sri Balbeer Singh, 41B, Laxmi Palace, PH-2 (Saed 40 Ft Road, Opposite – Gumbad) Dewari Road, Agra, PO- Pratap pura, Tehsil- Sadar, District- Agra.

..... Applicant

By Legal Practitioner - **Shri SS Rajawat and**
for the applicant **Shri Mukesh Kumar, Advocate**

Versus

1. Union of India, through Secretary, Ministry of Defence, DHQ PO, New Delhi - 110011.
2. Pay Accounts Officer (Ors), Rajput Regiment Centre, Fatehgarh- 209601.
3. OIC (Records), Rajput Regiment Centre, Fatehgarh- 209601.
4. C/O 9 Rajput Regiment Centre, C/o 56 APO, PIN- 912109.

..... Respondents

By Legal Practitioner - **Shri Yogesh Kesarwani,**
for the respondents **Central Govt Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

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

- (a) *To Set aside the impugned letter/ order dated 25.04.2019 passed by the Pay Accounts Office (Ors), Rajput Regiment Centre, Fatehgarh i.e. the Respondent No. 2 contained as Annexure No 1 of this O.A.*
- (b) *to direct the respondents to remit the amount of Rs. 1,82,000/- against the Children Education Allowance, which has been illegally deducted from the Final Statement of Accounts of the applicant at the time of his retirement.*
- (c) *To further direct the respondents to immediately remit the amount of Rs. 1,82,000/- against the Children Education Allowance in pursuance of the amended Part II Order dated 30.04.2016, duly approved and issued by the Unit.*
- (d) *To pass such other orders/directions as deemed fit and required in the facts and circumstances of the present case.*

2. Briefly stated facts of the case are that applicant was enrolled in the Indian Army on 23.02.1988 and was discharged from service on 29.02.2016 (AN) on fulfilling the conditions of his enrolment. The applicant has four children. He was being paid Children Education Allowance (CEA) for

two younger children. At the time of retirement an amount of Rs. 1,82,000/- paid to the applicant on account of CEA was recovered from the pay account of the applicant. Applicant represented his case for remitting the amount of CEA but no action was taken by the respondents. Being aggrieved with recovery of CEA, the applicant has preferred this O.A. for remitting deducted amount of CEA.

3. Learned counsel for the applicant submitted that the applicant was paid CEA for two younger children between 2008 to 2016 on the basis of Part II Order published by the Unit. At the time of retirement of applicant from service, a final statement of accounts was prepared and Rs. 1,82,000/- granted on account of CEA was deducted from the pay account of the applicant stating that CEA is admissible for two elder children and not for the younger children. On the request of applicant, Part II Order with regard to payment of CEA to two younger children was cancelled and amended Part II Order for payment of CEA to two elder children was published by the unit on 30.04.2016. After publishing amended Part II Order and cancellation of previous one, the unit has referred the matter to respondents to credit the deducted amount in the account of the applicant after verifying CEA bills from

competent authority but respondents have not remitted the amount in pay account of the applicant. Applicant submitted application under Right to Information Act, in reply respondents informed the applicant vide letter dated 25.04.2019 that 9 Rajput Regt cannot publish 2nd Part II Order cancelling the previous one after retirement of the individual. Learned counsel for the applicant prayed that respondents be directed to remit amount of CEA wrongly deducted from pay account of the applicant.

4. On the other hand, submission of learned counsel for the respondents is that as per service records applicant has four children named (i) Vivek KUMar- date of birth 28.04.1994, (ii) Kavita- Date of Birth 24.06.1995 (iii) Savita- Date of Birth 01.07.1998 and (iv) Abhishek – Date of birth 15.01.2001. At the time of retirement, final settlement of account (FSA) of the applicant was carried out. A sum of Rs. 1,79,290/- on account of wrong payment of CEA was deducted from Individual Running ledger Account (IRLA) of the applicant. Applicant submitted an application dated 21.08.2017 for adjustment of his CEA. He was informed that as per Govt of India, Min of Def letter dated 10.11.2016, CEA is admissible for first two children only. If the CEA for first two children is not claimed,

then it lapses. In the instant case, the applicant had claimed CEA for last two children which is against the policy. Since, the details of children was not fed in the system in Pay Account Office (Other Ranks), the claim was accepted by the system but at the time of retirement/ discharge/ becoming non effective, the complete IRLA, service dossier along with sheet roll and other documents were audited thoroughly right from the day of enrolment till becoming non effecting. This process of auditing is called Final Settlement of Account (FSA). Any excess amount, if paid is deducted/ recovered and unsettled/ left out amount, if any is paid/credited in the IRLA. During process of FSA, it was found that the applicant had claimed CEA for the third and fourth child instead of first and second child, therefore, the amount was recovered due to being not admissible as per policy on grant of CEA. Further As per policy, Part II Order cannot be published by the last unit of any individual after becoming non effective. In the instant case, the applicant was retired from service on 28.02.2016 (AN), whereas the unit published Part II Order regarding cancellation of CEA for third and fourth child and re-published grant of CEA for the first and second child of the applicant in the month of July 2016. The applicant was not in effective strength of the unit in the month of July 2016,

therefore, publication of occurrences of cancellation/ grant of CEA is wrong/ incorrect and against the policy. The amount of CEA was erroneously paid to the applicant, hence respondents have every right to recover the excess amount paid to applicant. His further submission is that applicant has no locus-standi to file the instant O.A. Learned counsel for the respondents has further contended that since the matter is related to payment of CEA which was wrongly paid to applicant, this O.A. has no merit and deserves to be dismissed.

5. We have heard learned counsel for the parties and perused the record.

6. It is not disputed that applicant was granted CEA Rs, 1,79,290/- for his third and fourth children which was deducted at the time of retirement. Army Headquarters, policy letter issued on grant of CEA clearly states that CEA is admissible to first two children only. If the CEA for first two children is not claimed, then it lapses. As per policy reimbursement of CEA is not permissible for third child even if reimbursement has not been claimed in respect of first and/or second child. However, as per OM No.12011/03/2008- Estt.(AL) dated 11.11.2008, the Children Education Allowance would be admissible for

more than two children where as a result of the second child birth results in birth of twins or multiple children. Further, reimbursement of CEA for the 3rd child is also admissible in case of failure of sterilization operation. Such reimbursement is admissible only for the first child birth after failure of sterilization operation. This point was further clarified vide O.M. No.12011/16/2009-Allowance) dated 13.11.2009.

7. In the instant case, applicant claimed CEA for his third and fourth child and amount of CEA was credited in his IRLA. At the time of retirement, the same was deducted being not admissible as per policy of CEA. On the request of the applicant, fresh Part II Order for grant of CEA for first two children was published by his unit after retirement of the applicant. As per policy, Part II Order cannot be published by the last unit of any individual after becoming non-effective. Applicant was retired from service on 28.02.2016 and part II order regarding grant of CEA for first and second child was published on the month of July 2016, the applicant was not in effective strength of the unit, hence publication of occurrence is incorrect and against the policy.

8. We are therefore, of the opinion that no injustice has been done to the applicant and the decision of deducting CEA

was correctly taken based on extant rules. Further, we do not find any question which needs to be adjudicated in this Original Application.

9. For the aforesaid reasons, the application is considered to be devoid of merit and, consequently, the applicant is not entitled the relief as prayed. The Original Application is liable to be dismissed.

10. A conceptus of our above observations is that the applicant has not been able to make out a case and the application deserves to be dismissed.

11. It is accordingly **dismissed**.

12. No order as to costs.

13. Miscellaneous applications pending, if any, shall stand disposed off.

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

Dated : 07 January, 2022

Ukt/-