

**(2019) 08 AFT CK 0026**

**In the Armed Forces Tribunal**

**Case No : Original Application No. 169 Of 2019**

Avaya Charan Sahu

APPELLANT

Vs

Union Of India And Others

RESPONDENT

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**Date of Decision :** 06-08-2019

**Acts Referred:**

**Citation :** (2019) 08 AFT CK 0026

**Hon'ble Judges :** Sunita Gupta, J;P. Murugesan, Member (A)

**Bench :** Division Bench

**Advocate :** S.S. Pandey, V.S. Tomar

**Final Decision :** Disposed Of

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## **Judgement**

1. Heard the learned counsel for the parties.

2. By way of present OA, the applicant has prayed for the following reliefs:

(a) Call for the Records based on which the Respondents have taken a decision not to issue amendment in the policy dated 11.12.2013 in the light of

the judgment dated 10.12.2014 in OA 113 of 2014 and quash the same.

(b) Call for the Records including the instructions based on which the Respondents have cancelled the option of the Applicant, recovered the pay and allowances which was revised based on his option and thereafter quash the same.

(c) The Respondents be directed to restore the pay of the Applicant from the date of his promotion on 13.02.2.007 instead of 01.01.2006 and refund

the amount deducted from him with further direction not only to grant him pay in the said revised scale but fix all his post retirement benefits from the

date of his retirement till date based on the said revised last pay.

(d) Direct the Respondents to pay the Applicant arrears of the difference of pay

in the Rank of Nb Sub and consequently in the Rank of Sub after adjusting the payments already made by revising other allowances as per the revised rate including increment/DA etc. earned till date along with interest @ 12% from the date it was payable till the date payment is made.

(e) Pass any other order/orders as deemed appropriate by this Honble Tribunal in the facts and circumstances of the present case.

3. Learned counsel for the respondents has opposed the maintainability of the OA on the ground of territorial jurisdiction. Moreover, there is no

impugned order. It is further submitted that before filing the present OA, neither any representation nor any appeal was preferred by the applicant and,

therefore, before exhausting statutory remedies, the OA is premature.

4. Since large number of OAs have been filed before the Tribunal on this issue, therefore, for the time being, we are leaving the issue of jurisdiction

open. One thing is clear that before filing the OA, either no representation was made by the applicant or if made, same was not disposed of.

Therefore, it will be desirable that the OA be treated as redressal of grievances by the Competent Authority, which will dispose of the rederssal of

grievances in the light of the judgment dated 10.12.2014 passed in O.A. No. 113 of 2014 titled Sub Chittar Singh and others Vs. Union of India & Ors.

and judgment dated 09.12.2016 in O.A. No. 1610 of 2016 titled Sub Sadeesh Kumar Vs. Union of India & Ors. passed by the Principal Bench of

AFT.

5. In case, the applicant is entitled for the relief(s) in the light of the aforesaid judgments, same be granted to him, otherwise a speaking order be

passed within a period of six months from the date of receipt of copy of the order, which be communicated to the applicant.

6. In case the applicant still feels aggrieved by the order so passed, he will be at liberty to take legal recourse at appropriate Forum.

7. The respondents are also at liberty to take appropriate objection including jurisdiction in case any subsequent proceedings are initiated by the applicant.

8. In view of the foregoing, OA stands disposed of.

9. Copy of this order be given `Dasti' to the learned counsel for the parties.