

(2019) 08 AFT CK 0015
In the Armed Forces Tribunal
Case No : Original Application No. 503 Of 2019

Sanjiv Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 06-08-2019

Acts Referred:

Citation : (2019) 08 AFT CK 0015

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

Bench : Division Bench

Advocate : S.S. Pandey, J.S. Yadav

Final Decision : Disposed Of

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 Respondent No. 1 has taken a decision not to issue amendment in the policy dated 11.12.2013 in the light

of judgment of this Honble Tribunal dated 10.12.2014 in OA 113 of 2014 and judgment dated 05.10.2017 in OA 1092 of 2017 by extending the benefit

of pay fixation from the date of promotion instead of 01.01.2006 by applying Para 14 of 1/S/2008 thereby denying the Applicant his rightful claim of

equal pay for equal work for want of exercise of option by the Applicant and thereafter quash the same.

(b) Direct the Respondents to extend the benefit of fixation of pay to the Applicant to ensure the more beneficial fixation of pay from the date of

promotion as Nb Sub in the revised pay scale in 6th CPC with effect from 01.09.2007 either allowing him to opt the same now as done in case of Sub

Dhyan Singh or by applying the more beneficial clause and accordingly step up

the pay of the Applicant in the Rank of Naib Sub and Sub with further direction to grant the Applicant arrears of such pay fixation along with the interest @ 12 percent from the same was due till its actual realization.

(c) 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.