

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-14249-2023(O&M)
Date of decision: 07.07.2023**

Union of India and others

... Petitioners

Versus

Armed Forces Tribunal and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Mr. Rohit Verma, Advocate, for the petitioners

RAVI SHANKER JHA, C.J. (Oral)

1. The present petition has been filed by the Union of India being aggrieved by orders dated 28.04.2023, 22.05.2023 & 30.05.2023, passed by the Armed Forces Tribunal, Chandigarh Regional Bench, Chandimandir, in execution proceeding MA(E)-1467-2018 that is pending before the Tribunal, arising out of order dated 27.10.2017, passed in OA-408-2017, which was decided along with OA-2755-2013 and 549 connected matters on 27.10.2017.

2. OA-2755-2013 was allowed by order dated 27.10.2017, with a direction to the effect that Honorary Naib Subedars, who retired on 01.01.2006, would be entitled to revised pay structure w.e.f. 01.07.2009, which would be computed and paid to them within a period of four months from the date of the order, i.e., 27.10.2017, failing which the respondents therein would be entitled to interest @ 8% pa on the difference.

3. It is stated that in compliance of the aforesaid order, the petitioners have disbursed a sum of nearly Rs.1600 Crores to about 75000 persons. It is also stated and not disputed that the arrears have also been paid, and it is only the interest part that remains outstanding.

4. This fact is undisputed, and in paragraph 7 of the affidavit dated 29.05.2023, filed before the Tribunal in the execution proceedings, the Officer concerned has himself stated that the issue in the bunch of cases relates to payment of interest for arrears of revision of service pension of affected Honorary Naib Subedars, payment of which has already been made into their accounts.

5. The Tribunal looking to the fact that the interest had not been paid to the aggrieved persons, passed the order dated 28.04.2023 in the execution proceedings, directing the Additional Director General Personnel Services-4 to submit a compliance report regarding disbursement of interest by the next date of hearing, i.e. 22.05.2023, failing which the Additional Director General Personnel Services-4 would remain personally present in Court on the date fixed and show cause as to why proceedings for contempt of Court be not initiated against him, and also imposed a cost of Rs.25000/- which was directed to be treated as a mitigating circumstance. On 22.05.2023, though the Officer was not present in person, one Col. Jagjot Singh, Director Personnel Services-4, appeared in the matter and informed the Court on an affidavit that the matter was pending before the Principal Integrated Financial Advisor (Q&M), Army Headquarter, New Delhi. For the order was not complied with, the Tribunal on this date initiated suo moto contempt proceedings against Additional Director General Personnel Services-4 as well as Principal

Integrated Financial Advisor (Q&M), Army Headquarters, New Delhi and directed them to remain personally present in Court on the next date of hearing. As it appears from a perusal of the order passed by the Tribunal on the next date, i.e. 30.05.2023, both the Officers in question did not appear before the Tribunal and while an application seeking exemption from appearance as well as from depositing the amount was filed by the ADGPS-4, no such application was filed on behalf of PIFA(Q&M). The Tribunal accordingly issued bailable warrants for their appearance before the Tribunal in the sum of Rs.50,000/- each with one surety in the like amount, but while doing so, the Tribunal again observed that in case the orders passed in execution proceedings and its connected matters, are implemented before the next date of hearing, the same will be considered as mitigating circumstance and in that event the respondents may approach the Tribunal by filing an appropriate application for withdrawal of the warrants.

6. The Union of India being aggrieved by order dated 30.05.2023 has filed this petition, raising several issues, including the issues of maintainability of the contempt proceedings; as to whether any contempt has actually been committed by the authorities (UOI) and its Officers; and as to whether any contempt proceeding can be initiated in view of the fact that the authorities have already executed the order as far as determination and payment of pension and arrears is concerned, and is also willing to pay interest on the delay that has occurred beyond the period of four months as directed in the original petition.

7. Though several issues have been raised and argued the learned Additional Solicitor General appearing for the Union of India, on instructions

received through Major Williamjeet Singh, OIC, AFT, Legal Cell, Chandimandir, and with a view to give quietus to the matter, submits that the authorities are in earnest making all efforts to comply with the orders and they have no intention or intent to violate any of the orders passed by the Tribunal and deeply regret the inconvenience, if any, caused to the Tribunal. He submits that the authorities shall make all efforts to ensure that the interest due to the persons concerned, who have approached the Tribunal, would be paid as far as possible by the end of August, 2023. He further submits that the authorities concerned, namely, Additional Director General Personnel Services-4 and Principal Integrated Financial Advisor (Q&M), Army Headquarter, New Delhi would file an affidavit to this effect before the Tribunal, and in addition, also undertake to personally appear before the Tribunal on the next date of hearing, i.e., 17.07.2023, to make such a statement and file the affidavit.

8. In the circumstances, and in view of the undertaking and statement made before us, and subject to its compliance by the Officers concerned, the present writ petition is disposed of with a direction that in case the Officers concerned do so, the proceedings initiated by the Tribunal for sumo moto contempt as well as the bailable warrants shall be kept in abeyance and shall remain stayed till the next date of hearing before the Tribunal. It is made clear that as undertaken before this Court, in case the Officers appear before the Tribunal on the next date of hearing and file an affidavit, the same would be treated as a mitigating circumstance and the Tribunal may review its order to initiate suo moto contempt proceedings and issuance of bailable warrants. However, it is also made clear that in case the undertaking given

before this Court is not complied with and the affidavit is not filed and the Officers concerned do not appear before the Tribunal on the date fixed, the Tribunal shall be at liberty to proceed further in the suo moto contempt proceedings as well as bailable warrants, in accordance with law. It is made clear that this Court has not entered into the legal issues raised by the petitioners or expressed any opinion in that regard and, therefore, in case occasion arises these issues may be raised by the petitioners again in subsequent proceedings.

With the aforesaid observations, the present petition is disposed of in terms of the undertaking given before this Court with a view to give quietus to the proceedings.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

07.07.2023
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO