

ARMED FORCES TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

MATTERS PENDING BEFORE LARGER BENCH AS ON 06.02.2023

Sl. No.	OA Number	Issue/Question of law involved
1.	629/16, 630/16, 963/16, 1169/16, 1304/16, 1517/16, 257/17, 1206/16, 1209/16, 365/17, 502/17, 1344/17, 1346/17 & 1382/17. (LDOH- 06/09/2019) No further date	Enhancement of age of superannuation of DGAFMS Medical Officers at par with Non-Teaching and Public Health Specialists and General Duty Medical Officers of CHS to 65 years. <i>(Referred by the Hon. Bench comprising Hon. Babu Mathew P. Joseph, M (J) & Hon. Lt. Gen. S.K. Singh, M (A), vide order dated 17.01.2017)</i>
2.	CA 04/2014 (PB) in OA 04/2014 (RB, Kolkata) & CA 07/14 (PB) in OA 29/14 (RB, Kolkata). (LDOH- 19/07/2019) No further date	Maintainability of Contempt Applications - Section 19 of the AFT Act & Rule 25 of the AFT (Procedure) Rules, 2008 - Whether a willful disobedience to or no-implementation of its order may amount to cause any interruption or disturbance in the proceedings of this Tribunal thereby attracting contempt. <i>(Referred by the Hon. Bench comprising Hon. R.C. Mishra, M (J) & Hon. Lt. Gen. S.K. Singh, M (A), vide order dated 15.04.2015)</i>
3	RA 265/2017 in OA 586/2015 (RB, Chandigarh) (LDOH- 23/08/2019)	(i) Is the discretion of Central Government to proceed under Section 19 read with Rule 14 dependent upon the reasons recorded/not recorded by the Confirming Authority in support of its refusal to confirm the finding of Court martial inspite of the fact that the two proceedings (one under Section 19 and the other under Chapter X of the Act) are independent of and distinct from each other and Rule 70 of the Rules does not require the Confirming Authority to record reasons while confirming or refusing to confirm findings of a general or district court martial ? (ii) Can resort to Section 19 and Rule 14 be held to be impermissible or abuse/colourable exercise of power only because the Court martial has recorded a finding of acquittal even on revision on the charge(s) based on the materials on which proceedings under Section 19 of the Act and Rule 14 of the Rules are

		sought to be initiated ? (iii) Is it permissible for this Tribunal while exercising the power of judicial review qua a show cause notice issued under Section 19 of the Act read with Rule 14 of the Rules to re-appraise the evidence adduced before the Court Martial and other attendant circumstances to find out correctness of the satisfaction of the competent authority recorded in show cause notice that the finding of acquittal recorded by the Court Martial is perverse or against the weight of the evidence available on record, in the light of observation of the Hon'ble Supreme Court in <u>Harjeet Singh Sandhu's case</u> (Supra) that if on the satisfaction reached by the authority two views are possible, the court will decline to interfere ? <i>(Referred by the Hon. Bench comprising Hon. M.S. Chauhan, M(J) & Hon. Lt. Gen. Munish Sibal, M (A), of AFT, RB, Chandigarh, vide order dated 24.04.2018)</i>
4	MA (Dy No.3380/2015) in OA No.155/2011 (LDOH- 15/04/2021) No further date	(i) Whether the order of the Tribunal dated 18.01.13, upon passing of the promotion order dated 09.01.13, which was held to be in full compliance of the Tribunal's order, by the Execution Court on 08.02.13 in MA 479/12, gives an end to the <i>lis</i> started by the petitioner in OA 155/11 ? (ii) Whether in the facts of the case, the petitioner's only right was to challenge the order dated 09.01.13 by moving appropriate application i.e. OA before the Tribunal, on the basis of the fresh cause of action accrued to the petitioner by virtue of the order dated 09.01.13 ? (iii) Whether the permission granted to the petitioner by the Delhi High Court for moving appropriate application before this Tribunal entitles him only to challenge the order dated 09.01.13 or entitles him to seek recalling the earlier order dated 08.02.13 disposing of the execution petition in full satisfaction ? AND

		(iv) If the order dated 08.02.13 passed in MA 479/12 is recalled, whether the petitioner can question the correctness, legality and validity of the promotion order dated 09.01.13 in execution proceedings? <i>(Referred by the Hon. Bench comprising Hon. Prakash Tatia, The then Chairperson & Hon. Lt. Gen. Sanjiv Langer, M (A), vide order dated 25.12.2015)</i>
5	MA 764/15 in OA 414/10 With MA 287/16 in DIARY NO. 1777/16, MA 288/16 in DIARY NO. 1778/16 and MA 289/16 in DIARY NO. 1779/16. (LDOH-04/01/2023 Enblock)	Whether a direction given in an order disposing an OA to treat the applicant and all persons similarly situated alike in respect of service benefits awarded to applicant by the Tribunal would postulate that the order has been passed <i>in rem</i> as applicable to all similarly situated persons, like applicant, enabling them to seek execution of such Orders involving Section 29 of the AFT Act,.2007 ? <i>(Referred by the Hon. Bench comprising Hon. S.S. Satheesachandran, M (J) & Hon. Lt. Gen. Sanjiv Langer, M (A), vide order dated 25.05.2016)</i>
6	OA 29/2014 LDOH-22.07.2019 (NDOH- No further date)	(i) Whether a person who got his timely promotion (without stagnation) and also completed his total service of 24 years, whether he will be entitled to MACP ?; and (ii) Whether a person who has completed say more than 8 years of service in one rank and got MACP-I, whether such person even if got the further promotion within 8 years of this promotion, will become entitled to MACP II upon completion of 16 years of service from the time of his entry into lower post or for every MACP ? <i>(Referred by the Hon. Bench comprising Hon. Mr. Justice Prakash Tatia, The then Chairperson & Hon. Lt. Gen. Sanjiv Langer, M (A), vide order dated 17.08.2015)</i>

7	OA 1487/18, OA 1952/17, OA 1880/18, OA 1983/18, OA 1643/18, OA 181/19, OA 2036/19, OA 1139/21 WITH MA 2942/19, OA 2426/19, OA 416/21, OA 34/20, OA 897/19 & OA 689/20 (LDOH-14/09/2022)	The following questions referred to the Larger Bench for its consideration: i) Whether the judgment in the case of Maj Amit Kumar Mishra Vs. Union of India and Ors. (OA No.1229/2017 decided on 31st July, 2018) lays down the correct law with regard to powers available to the Central Government or the Prescribed Authority under Section 90(i), 91(i) of the Army Act, 1950, Section 91(i), 92(i) of the Air Force Act, 1950 and the relevant provisions of the Navy Act, 1957 and the interpretation construed there under is in accordance with the principles of law particularly the principles of Interpretation of Statute? ii) Whether, as held in the case of Amit Kumar Mishra Section 90(i) of the Army Act and 91(i) of the Air Force Act are nothing but provisions incorporated to give effect to rights available to wives and children by virtue of a decree of maintenance awarded to them and to overcome the difficulties they may face in the matter of getting the amount of maintenance as per the decree in view of the prohibition contained in Section 28 of the Army Act and Section 28 of the Air Force Act. Whether the interpretation in this regard made by the Bench in the case of Amit Kumar Mishra (supra) is in accordance with the settled principles of interpretation of a statute/law? iii) Whether the law laid down in the case of Amit Kumar Mishra is in conflict to the law laid down by the Bench in the earlier case of Charanjit Singh and others or the law laid down by the Hon'ble Delhi High Court in the case of Jaideep Singh Chauhan (supra) and if so, what should be the correct principle of law applicable with regard to the issue in question? iv) Any other question, as may be considered relevant By the Full Bench to the issue in question, as may be canvassed by the counsel representing the parties. <i>Referred by the Hon. Bench comprising Hon. Mr Justice Rajendra Menon, Chairperson & Hon. Lt. Gen. Philip Campose, M (A), vide order dated 26.02.2020)</i>
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8	OA 589/19 OA 1690/20, OA 1691/20 OA 1692/20, OA 1693/20 OA 1694/20, OA 1797/20 OA 1920/20, OA 1709/21 OA 2589/21, OA 2590/21 OA 2544/21 (LDOH – 09.01.2023 Enblock)	Whether an individual who has been conferred rank of 'Hony Nb Sub' is entitled to the pension of 'Nb Sub' or 'Hony Nb Sub' in terms of the Govt. Of India Circular dated 12.06.2009. <i>Referred by the Hon. Bench comprising Hon. Ms Justice Sunita Gupta, M (J) & Hon. Air Marshal BBP Sinha, M (A), vide order dated 28.01.2020)</i>
9	OA 2059/21 (NDOH – 22/02/2023)	For consideration of the issues involved in the matter with regard to the correct interpretation of the provisions of Section 27 and the procedure to be followed as canvassed by the respondents in the matter of deciding a complaint under Section 27 of the Air Force Act. <i>Referred by the Hon. Bench comprising Hon. Chairperson & Hon. Lt Gen PM Hariz, M (A), vide order dated 05.01.2022)</i>
10	RA 1/2020 with MA 58/2020 in OA 228/2012 (LDOH – 20/01/2023 - Enblock)	Vide this application, the applicant seeks review of the orders dated 24.09.2014, passed by the Larger Bench in OA 228/2012 on the following issue : <i>"For consideration of the issues involved in the matter with regard to the correct interpretation of the provisions of Section 27 and the procedure to be followed as canvassed by the respondents in the matter of deciding a complaint under Section 27 of the Air Force Act."</i> <i>Referred by the Hon. Bench comprising Hon. Ms Justice Sunita Gupta & Hon. Lt Gen PM Hariz, M (A), vide order dated 20.01.2022)</i>
11	RA 3/2020 with MA 212/2020 in OA 965/2017 (LDOH – 20/01/2023 - Enblock)	Vide this application, the applicant seeks review of the orders dated 10.05.2019, passed by the Larger Bench in OA 965/2017 on the following issue : <i>"Whether "Attachment Order" issued under Army Instruction 30 of 1986 is "Temporary Posting"/"Temporary Transfer" and is excluded as "Service Matter" AND "Whether the Tribunal has or does not have jurisdiction to entertain the application challenging "Attachment Order" as per Section 3(o)(iv)(ii) of the Armed Forces Tribunal Act, 2007."</i>

12	OA 548/16, OA 210/15 & OA 1085/16 (Bench not yet constituted. To be put up after new Hon. M (A) are appointed.)	For consideration of the issues involved in the matter with regard to grant of encashment of leave, where the applicant had been dismissed from service. <i>Referred by the Hon. Bench comprising Hon. Mr Justice VK Shali, M (J) & Hon. Vice Admiral P Murugesan, M (A), vide order dated 06.03.2019)</i> (Pending for constitution of bench)
13	OA 86/11, OA 14/2020, OA 06/2020 (RB, Jaipur) (Bench not yet constituted.)	For consideration of the issues involved in the matters with regard to re-instatement in service or alternatively grant of Disability Pension for DSC Personnel. <i>Referred by the Hon. Bench comprising Hon. Mr Justice Rajendra Menon, Chairperson & Hon. Lt Gen Bobby Cherian Mathews, M (A), vide order dated 19.07.2022)</i> (Pending for constitution of bench)
14	OA 88/2016 & OA 219/2017 (LDOH – 06.09.2019)	The following questions referred to the Larger Bench for its consideration: (a) Whether the period of service, which a person has rendered as Artificer in the capacity of being less than 18 years of age, can his service be taken into consideration, and if so, to what effect? (b) Whether the judgment in Surender Singh Parmar's case is in per curiam as it did not consider Note 3 of the relevant Regulations? (c) Whether the Tribunal is competent to grant condonation of deficiency in service so as to make a person eligible for grant of pensionary benefit of qualifying service, if so, within how much time it must be applied ? (d) Whether the benefit of Circular issued on 6th August, 1984 with regard to grant of quantum of pensionary benefits alone is applicable to an official so as to give him the benefit of condonation of deficiency of service by rounding-off a period of a full year or less than that in terms of the Regulations applicable at the relevant time?

		(e) Whether the Circular, which has been issued on 6th August, 1984 and is specifying that it is prospective in operation inasmuch as the date of implementation of Circular is given, can be made applicable retrospectively, so as to extend the benefit to the applicant who admittedly has retired way back in 1961 ? (f) Does the question of laches and delay would arise in granting the aforesaid benefit of condonation of deficiency of service, and if so, to what effect ? (g) Any other question which may arise during the course of hearing or is raised by any of the parties." <i>(Referred by the Hon. Bench comprising Hon. Mr Justice VK Shali, M(J) & Hon. Vice Admiral P. Murugesan, M (A), vide order dated 15.05.2018)</i>
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(AK Singh)
Section Officer (J)
06.02.2023