

Form No.4
[(SEE RULE 11(1))]
IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA
ORDER SHEET

APPLICATION NO. O.A. No. 128/2016

APPLICANT (S)	LT COL ASHOK KUMAR CHATTERJEE
RESPONDENT (S)	Union of India & Others
Legal Practitioner of applicant	Legal Practitioner for Respondent (s)
Mr. S. K. Choudhury	Mr. Anand Bhandari

	<u>ORDERS OF THE TRIBUNAL</u>
	<div>Order Serial Number : 1</div> <div>Dated : 28-09-2016</div> <p>Present : Mr. S. K. Choudhury, d advocate for the applicant and Mr. Anand Bhandari, Id. counsel for the respondents assisted by Maj Narender Singh OIC Legal Cell. Memo of appearance filed by the Ld counsel for the respondents is taken on record.</p> <p>Heard Id. Counsel for the parties at length and perused records.</p> <p>This O.A. has been filed under section 14 of the Armed Forces Tribunal Act, 2007 for setting aside the impugned order dated 12.05.2016 whereby the alleged excess amount of pension of Rs.15,97,331/- was directed to be recovered from the applicant's pension account and to restore his "one rank one pension". The applicant was getting pension at the rate of Rs.76,316/- per month and on account of the above recovery his pension was reduced to Rs.25,453/- in the month of September, 2016. The applicant is 75 years old.</p> <p>We find that the impugned order has been passed without issuing show cause notice and without affording opportunity of hearing. Such a huge amount cannot be recovered from the pension of an aged person like the applicant without following principles of natural justice. Hon'ble Supreme Court in the case of State of Punjab Vs. Rafiq Masih (Civil Appeal No. 11527 of 2014) has deprecated such type of recovery</p> <p>Be that as it may, considering the facts and circumstances of the case we direct the applicant to prefer two separate representations, one for recovery of excess payment of pension from his pension account citing the judgment of the Hon'ble Supreme Court (Supra) and the other for restoration of 'one rank one pension' within a period of one month from the date of receipt of the copy of this order. The respondents shall dispose of the</p>

said two representations by a reasoned and speaking order within a period of six months from the date of receipt of the representations from the applicant.

Till the date of communication of the speaking order disposing of said two representations of the applicant, the impugned order remains suspended and no recovery shall be made from the pension of the applicant.

With the aforesaid directions we dispose of the application at the admission stage itself.

The O.A. is disposed of accordingly. No costs.

Plain copy of the order be handed over to both the parties.

(Lt Gen Gautam Moorthy)
Member(Administrative)

Justice Devi Prasad Singh
Member (Judicial)