
(2021) 02 AFT CK 0007

In the Armed Forces Tribunal

Case No : Original Application No. 1175 Of 2020, Miscellaneous Application No. 247, 268 Of 2021

JPS Bakshi And Others

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 14

Citation : (2021) 02 AFT CK 0007

Hon'ble Judges : Rajendra Menon, J;P.M. Hariz, Member (A)

Bench : Division Bench

Advocate : I. S. Singh, Anil Gautam, Harish V. Shankar

Final Decision : Dismissed

Judgement

1. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act 2007, the applicants have filed the present O.A seeking

the following reliefs:

(a) Call for the complete records of the case leading to the issuance of the impugned attachment orders dated 07.07.2020/15.05.2020, impugned

orders dated 01.06.2019 and 19.06.2019 and set aside the said orders being illegal and without jurisdiction;

(b) Call for the complete record of the convening order dated 19.06.2019 and the original Court of Inquiry proceedings and set aside the same being

illegal and without jurisdiction;

(c) Direct the respondents to drop the proposed disciplinary action against the applicants and relieve them from all consequences arising out of the said

Court of Inquiry proceedings; and

(d) Direct the respondents that no disciplinary action or any other action, whatsoever, shall be taken against the applicants on the basis of the said convening order and the Court of Inquiry proceedings.

2. It was the case of the applicants before us that when they approached this Tribunal, their attachment orders vide Annexure A1 dated 07.07.2020 (in

0.A No. 1175 of 2020) and Annexure A1 dated 15.05.2020 (in 0.A No. 1362 of 2020) and the impugned orders passed vide Annexures A2 and A3

dated 01.06.2019 and 19.06.2019 respectively with regard to convening of the Court of Inquiry at the instance of a particular officer, who also

involved in the matter, were unsustainable. Taking note of these factors, vide order dated 09.09.2020 in 0.A No. 1175 of 2020, we issued notice and

further proceedings in the Court of Inquiry initiated pursuant to the order dated 07.07.2020 were directed to be kept in abeyance. The same interim

protection, as was granted in 0.A No. 1175 of 2020, was made applicable in 0.A No. 1362 of 2020 also.

3. Now the respondents have filed M.A No. 268 of 2021, wherein, after reproducing the prayer made in 0.A No. 1175 of 2020, it is stated that after

the interim orders were passed on 09.09.2020 and after the dismissal of the application for vacation of interim order filed by the Union of India on

25.09.2020, all the relevant facts and circumstances were considered by the competent authority viz. GOC 11 Corps and issued directions to set aside

the proceedings of Court of Inquiry convened vide order dated 19.06.2019. Thereafter, a fresh convening order has been issued vide order dated

01.01.2021, as is evident from Annexures MA -1 and MA-2. It is also stated that in the light of the orders Annexures MA -1 and MA-2, the grievance

of the applicants with regard to the Court of Inquiry convened vide order dated 19.06.2019 does not survive. Furthermore, in the light of the aforesaid

order passed by the competent authority, the impugned attachment orders dated 07.07.2020 and 15.05.2020 automatically go and will not be acted

upon. Therefore, the learned counsel for the respondents submits that these applications are to be dismissed as having become infructuous.

4. At this stage, learned counsel for the applicants has stated that even if the Court of Inquiry is set aside and a new convening order is passed, the

attachment orders dated 07.07.2020 and 15.05.2020 have not been set aside and still survive and, therefore, a specific order is to be passed setting

aside both the attachment orders.

5. Having heard the rival contentions of the parties, we are of the considered view that when the competent authority has set aside the previous Court

of Inquiry, the attachment orders dated 07.07.2020 and 15.05.2020 issued in consequence of the said Court of Inquiry have no relevance. Therefore,

in our considered view, nothing further survives in these petitions and as they having become infructuous deserve to be dismissed. We do so.

6. We make it clear that in case any fresh cause of action arises, the applicants will be at liberty to file a fresh petition, if so advised, in accordance

with law.

7. With the aforesaid, both the applications stand dismissed as infructuous. Pending M.A, if any, stand closed.