
(2020) 07 AFT CK 0001
In the Armed Forces Tribunal
Case No : Original Application No. 793 Of 2020

Kapil Nehra

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 2(2)

Citation : (2020) 07 AFT CK 0001

Hon'ble Judges : Rajendra Menon, J; Philip Campose, Member (A)

Bench : Division Bench

Advocate : Anil Gautam

Final Decision : Dismissed

Judgement

1. The applicant appears in person. Prayers made in the original application read as under :

(a) To direct the respondents to grant maintenance allowances (rt 50% of Maj Kapil gross emoluments alongwith arrears wef 08 Jun 2020

and not discharging his obligation towards legally wedded wife.

(b) To direct the respondents to arrange SF accommodation for the Applicant against the entitlement of Maj Kapil, presently posted to J&K.

(c) To direct the Respondents to permit the Applicant to stay in the SMQ at Garrison Smalkha, till the time SF accommodation is allotted to

her.

(d) To pass direction not to force vacate the present SMQ at Garrison wherein Applicant residing presently, without following due process of

Law under Public Premises Act.

(e) To pass such further order, directions/Directions as this Hon'ble Tribunal may

deem fit and proper in accordance with Law.

2. The applicant wants to retain the accommodation provided and maintenance from her husband. This Tribunal is constituted under the Armed Forces

Tribunal Act, 2007 (hereinafter referred to as 'AFT Act') and as per Section 2(2) thereof, which reads as under:

2. Applicability of the Act.â?"(1) The provisions of this Act shall apply to all persons subject to the Army Act, 1950 (46 of 1950), the Navy

Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950).

(2) This Act shall also apply to retired personnel subject to the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air

Force Act, 1950 (45 of 1950), including their dependants, heirs and successors, in so far as it relates to their service matters.

3. This Tribunal has jurisdiction only to deal with the grievances of persons who are subject to Army Act, 1950 or the grievances of dependants, heirs

and successors of a retired or deceased personnel, who are subject to the Army Act.

4. The applicant admittedly is not subject to the provisions of the Army Act and her claim also will not come within the stipulations made in Section

2(2) of the AFT Act.

5. That being so, the applicant has to seek remedy either by approaching the appropriate Family Court or Civil Court or the High Court, as may be

advised.

6. In view of the fact that we lack jurisdiction to deal with the issue in question and the AFT Act does not apply in the case of the present applicant,

we dismiss the OA with the liberty as indicated hereinabove.