
(2020) 07 AFT CK 0011

In the Armed Forces Tribunal

Case No : Original Application No. 943 Of 2020

Mukesh Kumar Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 31-07-2020

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 2, 2(o), 3(o), 14

Citation : (2020) 07 AFT CK 0011

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

Bench : Division Bench

Advocate : B. K. Pandey, K. S. Bhati

Final Decision : Dismissed

Judgement

OA 943/2020

1. The applicant, who is an employee working in the Air Force, has invoked the jurisdiction of this Tribunal under Section 14 of the Armed Forces

Tribunal Act, 2007 and the prayer made in the application reads as under:

(a) To direct respondent No. 1 to 4 to file the copy of complete set of proceedings, findings and recommendations of COI and order therefrom which was conducted on the complaint of applicant dated 26.04.2019 against respondent no.5 in the interest of justice.

(b) To direct the authority (respondents) for proper and adequate disciplinary action to ensure a maximum punishment for un-law full and in-disciplined acts and deeds of respondent no.5 in the facts and circumstances of the case and till then a stay order to be passed on the Administrative Order pronounced by the authority in the said case in the interest of justice.

(c) To direct the respondents to stop deduction of maintenance of Rs. 13,800/

only as a maintenance of wife of the applicant in the above facts and circumstances and in the interest of justice.

(d) Pass any other or such further order(s) as deemed fit and proper to this Hon'ble Tribunal in order to secure the ends of justice in favour of the applicant.

2. On a perusal of the pleadings available on record and the grievance of the applicant, it is clear that the applicant made a complaint to the Air Force

Authorities sometime on 26th April, 2019, and the grievance in the complaint was with regard to certain relationship which respondent No. 5 has with

his wife and the applicant wanted action to be taken. Initially, the applicant felt that no action has been taken, status report about the complaint has not

been conveyed to him and now from the material available on the record it transpires that some action has been taken against the respondent No.5.,

administrative action has been processed and according to the Applicant he has been informed that for the serious act of commission and omission

made in the complaint respondent No.5 is being let off by awarding severe displeasure for 18 months. Inter alia, contended that for the misconduct

alleged to have been committed by respondent No.5 the punishment is on the lower side, proper action has not been taken the applicant is before this

Tribunal. Even though learned counsel for the applicant made vehement argument with regard to various aspects of the matter but it is not necessary

for us to burden this order with each detail. Suffice to say that in our considered view this is not a service matter, i.e., prayers (a), (b) and (d) are not

within our jurisdiction and therefore we need not interfere into the matter.

3. The Armed Forces Tribunal Act, 2007 was enacted and as per Section 2 of this said Act, the same applies to all persons to whom the provisions of

the Army Act, the Navy Act, and the Air Force Act apply. Service matters have been defined in Section 3 (o) to read ""service matters"", in relation to

the 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), mean all matters

relating to the conditions of their service and shall include,"" and thereafter with regard to service matters jurisdiction is vested on this Tribunal under

Section 14 of the Act. A perusal of the definition of the service matter would indicate that service matter as defined therein is in relation to persons

who are subject to the Army Act, the Navy Act and the Air Force Act, i.e., all

matters relating to the condition of their service and in particular with reference to remuneration, pension and other retirement with the benefits etc. From the aforesaid it is crystal clear that any person who has any grievance with regard to his service condition referable to items mentioned in Sub Section (o) of Section 2 can approach this tribunal for redressal of his service grievance under Section 14. In the present case, the applicant is not aggrieved by any terms and conditions of his employment or his service condition. His grievance is that for the complaint made by him, the respondents are not taking appropriate action against respondent no.5 and they are taking a lenient view in the matter. In our considered view, this is beyond the jurisdiction of this Tribunal. The Applicant in fact wants us to invoke a jurisdiction akin to one under Article 226 of the Constitution and is seeking a mandamus to the respondents to take action in a particular way as is indicated in the application. In our considered view, this being beyond our jurisdiction we see no reason to interfere in the matter. As far as prayer 8 (c) is concerned, as this pertains to deduction from the salary of the applicant, the applicant can agitate the same before the Tribunal in accordance to the law for which liberty shall be available to him. We have not considered this prayer in this application as no argument challenging this action was advanced at the time of hearing. Arguments were only advanced with regard to the prayers beyond our jurisdiction.

4. The OA is accordingly dismissed.

A copy of this order be provided DASTI to learned counsel for the parties.