

(2021) 10 AFT CK 0010
In the Armed Forces Tribunal
Case No : OA 2071 Of 2021

NK Deepu Paul K

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

Date of Decision : 01-10-2021

Acts Referred:

Armed Forces Tribunal Act 2007 — Section 3(o), 3(o)(i), 3(o)(ii), 3(o)(iii), 3(o)(v), 14
Army Act, 1950 — Section 80

Citation : (2021) 10 AFT CK 0010

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal, 2007, the applicant has impugned herein the order passed by the Competent Authority by which four days pay as fine has been imposed upon him in exercise of the powers under Section 80 of the Army Act, 1950. Challenge to the impugned order of punishment is made mainly on the ground that it has been done by violating the procedure established under law and is also in violation of Article 21 of the Constitution. It is said that the punishment has been imposed without giving proper opportunity and without following the prescribed procedure.

2. Respondents, at the time of hearing, raised a preliminary objection and by placing reliance on a judgment rendered by this Bench on 7th April, 2021 in the case of Dfr Shatrushan Sinsh Tomar Vs. Union of India and Ors. (OA No.665/2020) argued that as the punishment imposed is under Section 80 of the Army Act, 1950, after following a summary procedure and in view of the definition of the 'service matter' as defined in Section 3(o) of the Armed Forces Tribunal Act, the application is not maintainable.

3. Learned counsel for the applicant has rebutted the aforesaid; invited out attention to the provisions of Section 3(o) sub-clause (v) to say that the

punishment in question would fall within the purview of 'any other matter whatsoever' indicated in the definition of 'service matter'.

4. We have heard learned counsel for the parties at length on this issue and have taken note of the provisions of the Army Act 1950 and also the Armed Forces Tribunal Act, 2007. We also find that, import and meaning of the word 'service matter', as contemplated under Section 3(o) of the Armed Forces Tribunal Act, 2007, has been dealt in detail by us in the case of Dfr Shatrughan Singh Tamar (supra), we had taken note of various statutory provisions, as are provided in the Armed Forces Tribunal Act, particularly, the definition of 'service matter' as contained in Section 3(o). We have considered the submissions made, identical in nature, and after taking note of the provisions of the Army Act, Navy Act and the Air Force Act and the principles governing the interpretation of statute, have come to the conclusion that all matters of punishment arising out of a summary proceedings, except punishment of dismissal or imprisonment or the specific punishment contemplated in Section 3(o) Clause (i), (ii) and (iii) are excluded from the purview and jurisdiction of the Armed Forces Tribunal Act. As the punishment in question imposed by following a summary disposal or trial procedure, for the reasons already considered and discussed by us in the case of Dfr Shatrushan Singh Tomar (supra), we find that the punishment in question is not covered within the meaning of 'service matter' as defined in Armed Forces Tribunal Act and, therefore, we have no jurisdiction in the matter.

5. Accordingly, we are not inclined to interfere in the matter. We, however, grant liberty to the applicant to take recourse to such remedy as may be available to him under law.

6. The OA stands dismissed.