

(2011) 11 UK CK 0149

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1172 of 2004

Ramesh Singh

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 04-11-2011

Acts Referred:

Armed Forces Tribunals Act, 2007 — Section 14(2), 34

Citation : (2011) 11 UK CK 0149

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Hon"ble Sudhanshu Dhulia, J.—The petitioner was enrolled in the Indian Army on 3.1.2002 and was discharged from service on 26.3.2002 on medical grounds. It is this order which has been challenged by the petitioner by means of the present writ petition.

2. All the same, after the promulgation of the Armed Forces Tribunal Act, 2007, in terms of Section 34 of the Armed Forces Tribunal Act, 2007 all such proceedings, inter alia, pending before a High Court, which would have fallen within the jurisdiction of a Tribunal, had such proceeding arisen after the establishment of the Armed Forces Tribunal, are mandatory to stand transferred to the Armed Forces Tribunal on the date on which the Tribunal was constituted. Section 34 of the Armed Forces Tribunal Act, 2007 is being reproduced hereunder:

34. Transfer of pending cases.—(1) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) Where any suit, or other proceeding stands transferred from any court

including a High Court or other authority to the Tribunal under sub-section (1),--

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceeding to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under sub-section (2) of Section 14, from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.

3. This Court, therefore, is satisfied that in terms of Section 34 of the Armed Forces Tribunal Act, 2007, the instant writ petition would stand automatically transferred to the Armed Forces Tribunal on the constitution thereof.

4. In view of the above, the Registry is hereby directed to transfer the records of the present case in accordance with Section 34 of the Armed Forces Tribunal Act, 2007 to the Armed Forces Tribunal, near Governor House, Rafi Ahmad Kidwai Marg, Lucknow for its disposal.