

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

75.

OA 3413/2023
(In Chamber At 2:15 PM)

Ex Maj Vijay Singh ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Anand Kumar, Advocate
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC
Maj A.R. Subramaniam, OIC Legal Cell

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

O R D E R
28.11.2023

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application with a very innocuous prayer seeking a direction to the respondents to supply certified copies of the proceedings of Board of Officers, the Court of Inquiry held against him and also to supply the Forensic Report of his digital devices.

2. While hearing the matter on 03.11.2023, we had issued notice to the respondents and asked them to show cause as to why the documents, as prayed for, should not be supplied. After the matter was taken up, learned Sr. CGSC informed us that considering the sensitivity of the matter and the security issues related to the case, the matter be taken up 'In Chamber'. Accordingly, the oral prayer was allowed and the matter was taken up in chamber today.

3. It is pointed out by learned Sr. CGSC that as per the applicant's own submission, he has filed this application seeking certified copies of the documents as indicated in the prayer clause. He further added that based on the same documents that have been sought, the Hon'ble President of India in exercise of the powers conferred upon her under Section 18 of the Army Act, 1950 read with Article 310 of The Constitution of India has passed an order terminating the services of the applicant. Admittedly the said order passed by the Hon'ble President of India on 15.09.2023 is at Annexure A-1 of the paper book and reads as under:

*No. RB/150/MSP/Sec18/VS
President's Secretariat
Rashtrapati Bhavan*

*New Delhi – 110 004
Dated the 15 September 2023*

ORDER

The President, in exercise of powers conferred by Section 18 of the Army Act 1950 read with Article 310 of The Constitution of India and all other powers enabling in this behalf, is pleased to order that the services of IC-77256H Major Vijay Singh be terminated with immediate effect.

*Sd/-
(Ranjeet Singh Manral)
Maj Gen
Military Secretary to the President*

Copy to :-

*The Chief of the Army Staff
(In quadruplicate)*

For Communication to the Officer through Staff channels with the necessary administrative instructions and further action in accordance with the existing procedure.

4. A preliminary objection has been raised before us by the learned Sr. CGSC to say that once an order is passed under Section 18 of the Army Act, this Tribunal under Section 14 does not have the jurisdiction to deal with the matter. Under the Armed Forces Tribunal Act, this Tribunal has been conferred powers to deal with service matters as are defined under Section 3(o). Section 3(o) sub-clause (iv)(i) excludes the matters which are beyond the purview of this Tribunal and clearly indicates that an order passed under Section 18 of the Army Act is beyond the jurisdiction of this Tribunal and it cannot be subjected to a judicial scrutiny under the Armed Forces Tribunal Act. Therefore, this Tribunal does not have the jurisdiction to deal with the subject matter and the issue raised by the applicant before us. Even though the prayer made is to supply certified copies of the documents, but if based on the said documents the Hon'ble President of India has taken any action which is admitted by the applicant in the application, we are of the considered view that the issue of supplying of the documents is also hit by the provisions and meaning of "service matters" as contained in Section 3(o) sub-clause (iv)(i). Therefore, the objections raised by the respondents are tenable. We uphold the same and dismiss the application on account of the fact that it is not maintainable before us.

5. Learned counsel for the applicant emphasized that under the provisions of Army Rule 184, the applicant is entitled to copies of a Court of Inquiry/Proceedings of a Board of Officers unless ordered otherwise by the COAS for reasons recorded by him in writing. Since these documents were placed before the Hon'ble President and the President took an action under Section 18, it is the pleasure of the President which ultimately resulted in the impugned action and the prayer made by the applicant cannot be granted for the simple reason that the final order passed under Section 18 is beyond our jurisdiction and all actions taken are incidental and ancillary which culminated in the Hon'ble President's passing the order under Section 18 is also thus beyond the jurisdiction of this Tribunal.

6. Keeping in view the aforesaid, the OA stands dismissed.

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

[RAJENDRA MENON]
CHAIRPERSON

[P. M. HARIZ]
MEMBER (A)