

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI**

O.A. No. 154/2010

Dr N.K. Kalia

.....Applicant

Versus

Union of India & Others

.....Respondents

For applicant : Ex Maj Manish Bhatnagar, Advocate

CORAM:

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**O R D E R
22.03.2010**

1. Applicant by this original application has prayed that respondents may be directed to take up the matter with International Court of Justice, International Organisations of Human Rights and Government of Pakistan so that persons responsible for the aforesaid gory acts of omissions and commissions may be tried and punished under the local and international laws to bring justice to the victims of the instant case and to ensure that such acts which shake the human conscience are not dared to be repeated by any individual or country.

2. It is an unfortunate case in which dead bodies of Capt. Saurabh Kalia, IC-58522-F, Sepoy Naresh Singh Sinsinwar, Sepoy Banwari Lal Bagdia, Sepoy Mularam Bidiassar, Sepoy Bhikharam Mudh and Sepoy Arjunram Baswana of the 4 JAT Regiment of the Regular Indian Army were treated by the Pakistan in a most atrocious manner. It is alleged that in the month of May, 1999 4 JAT Regiment was deployed in Kaksar area in Kargil Sector on regular duty on the Line of Control between India and Pakistan. The Bajrang post named after the Hindu God located well within undisputed Indian territory and was under the area of responsibility of 4 JAT Regiment during the period January, 1999 to June, 1999. The Bajrang Post has been under the Indian possession since January, 1999.

3. In the first fortnight of May, 1999, a party under the command of Capt. Saurabh Kalia consisting of aforesaid Sepoys was sent to the Indian area of Bajrang Post under the lawful orders of Commanding Officer of 4 JAT Regiment with the object of reoccupying the said post. The entire party was wearing uniforms and insignias of the Regular Indian Army as per the terrain, weather and altitude. It is alleged that the said party was

captured alive on 15th May, 2006 while they were on Indian Territory and about to reach the Bajrang Post by the uniformed troops under the control of Pakistan Army.

4. It is further alleged that between 15.05.2006 till 09.06.2006 all the members of the said party were under the custody and control of the Pakistan Army. No intimation was sent to the high channels of Government of India and in absence of the information, the whole party was declared missing. Then the dead bodies of the six persons were handed over in badly mutilated condition by the troops of Pakistan Army on 09.06.2006. As per the procedure casualty report raised and after necessary post mortem the bodies were given to the parents and it was found that the dead bodies of those officers were given in most mutilated manner and they were tortured brutally like animal. Therefore, applicant who is father of Capt Saurabh Kalia filed this original application praying that such case of serious violation of the human rights of the prisoners of war should have been taken by the Government of India as per the Universal Declaration of Human Rights and International Organisations and to the proper Forum.

5. The applicant, a pained father has been writing to Government of India but without any result, therefore, he has approached this Tribunal by filing the present original application.

6. We regret that we cannot entertain this original application as it is not in our jurisdiction. However, the Government of India may take proper steps in accordance with law by bringing such kind of high handed action in serious violation of human rights to the International organisations. Since, we have no jurisdiction to entertain the matter, we do not find any merit in the present original application. Same is dismissed on merits. However, it is for the Government of India to take action in the matter. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
March 22, 2010.