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**COURT NO. 3, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
O.A. No. 77 OF 2010**

IN THE MATTER OF :

Brijesh

.....Applicant

VERSUS

Union of India & Ors.

.....Respondents

Dated: 23-04-2010

Present: Ld. counsel for the Applicant.
Dr. Ashwani Bhardwaj, counsel for the Respondents.

Heard and perused the record.

By way of the present application, the Applicant has challenged his non-selection in the Naval Academy. During the course of arguments, the attention of the learned counsel for the Applicant is drawn towards Section 2 of the Armed Forces Tribunal Act, 2007 which specifically lays down that this Tribunal has only jurisdiction on the personnel subject to the Army Act, Navy Act and Air Force Act. The Section 2 reads as under :

2. Applicability of the Act – (1) The provisions of this Act shall apply to all 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).

(2) -----

Further for ready reference, the relevant portion of the Section 3(o) of the Armed Forces Tribunal Act, 2007 is quoted hereunder :

3. Definitions :- in this Act, unless the context otherwise requires :-

“(a).....

(o) ‘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----

(i) -----;

During the course of arguments, learned counsel for the Applicant failed to explain that how the Applicant has become subject to the Navy Act.

Considering the above mentioned legal position and submissions of the learned counsels for the parties, we are of the opinion that this Tribunal has no jurisdiction to entertain the present case. At this stage, learned counsel for the Applicant wants to withdraw the present application with liberty to file fresh application before the Hon’ble Delhi High Court.

Considering the submissions of the learned counsel for the Applicant and the facts of the case, present application is dismissed as withdrawn with the liberty to the Applicant to file fresh application before Hon’ble Delhi High Court. Application is disposed of accordingly. File be consigned to the Record Room.

MANAK MOHTA,
(Judicial Member)

Z.U. SHAH,
(Administrative Member)

Dated: 23-04-2010