

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
02.

O.A. No. 19 of 2012

Lt. Gen. (Retd.) Avadesh Prakash

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Ms. Jyoti Singh, Senior Advocate with Mr. Sanjeev
Chaswal, Advocate.

For respondents: Mr. Ajai Bhalla, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

30.01.2012

1. Admit.
2. Issue notice. Mr. Ajai Bhalla, learned counsel for the Respondents accepts notice.
3. Learned counsel for the Respondents raised two objections one with regard to territorial jurisdiction and that leave cannot be granted beyond a particular period as per the service rules. We have considered the submissions. The Petitioner's Court Martial is over and he has already been sentenced to dismissal from service and confirmation petition is pending. So far as raising the question of territorial jurisdiction is concerned it is the discretion of the Chairperson under Section 27 of the Armed Forces Tribunal and looking into the facts and circumstances of the case, this case is entertained at Principal Bench. Therefore so far as the objection with regard to territorial jurisdiction is concerned, I overrule it and hold that this case will be entertained at Principal Bench of the Armed Forces Tribunal.

4. Since the Petitioner has been sentenced and he has already filed a confirmation petition which is pending with the Government, let the Petitioner may be permitted now to move from the present place of the Court Martial to his place of residence and he will give undertaking in writing that as and when he is required he will make himself available to the authorities for serving out the sentence. Therefore the question of leave in the present case does not arise as the Petitioner has already superannuated.

5. With these observations, the petition is disposed of. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
January 30, 2012
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