

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

35.

T. A. No. 258 of 2009

Writ Petition (Civil) No. 8178 of 2007

Dfr. Krishan Kumar Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. D.S. Kauntae, Advocate.

For respondents: Mr. Mohan Kumar, Advocate.

CORAM:

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

HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

ORDER

10.07.2012

Learned counsel for the respondents has raised preliminary objection with regard to maintainability of this petition.

Petitioner filed the first writ petition no. 204/2007 before the Hon'ble Delhi High Court which was disposed of by Division Bench of Hon'ble Delhi High Court comprising Hon'ble Mr. Justice T.S. Thakur, J. and Hon'ble Mr. Justice S.N. Aggarwal, J. vide order dated 10.01.2007 and directed the respondents to dispose of the statutory complaint of the petitioner dated 02.05.2006 within three weeks from the date of order with liberty to petitioner to challenge the order passed on the statutory complaint separately in case he is aggrieved of the same.

Thereafter petitioner filed the second writ petition bearing no. 4680/2006 challenging the rejection order passed by the respondents dated 18.01.2007 whereby petitioner's statutory complaint was rejected. This writ petition was dismissed as withdrawn vide order of Hon'ble Delhi High Court dated 17.07.2007 comprising the same coram of Hon'ble Mr. Justice T.S.

Thakur, J. and Hon'ble Mr. Justice S.N. Aggarwal, J. However no liberty was granted to the petitioner to file fresh petition. The order dated 17.07.2007 reads as under;

"17.07.2007

Present : Mr. D.S. Kaunate for the petitioner.

Ms. Saroj Bidawat for the respondents with Col. S.B. Pandey

W.P(C) No. 4680/2006

After arguing the matter at considerable length, Mr. Kauntae unconditionally seeks leave to withdraw this writ petition.

Dismissed as withdrawn.

T.S. THAKUR, J.

S.N. AGGARWAL, J.

July 17, 2007"

Thereafter, petitioner filed the present writ petition no. 8178/2007 before the Hon'ble Delhi High Court challenging the impugned order dated 18.01.2007 as well as impugned discharge orders dated 02.02.2006 and 28.02.2007 which was subsequently transferred to this Tribunal after its formation.

The prayers sought in the present petition i.e. W.P.(C) No. 8178/2007 and that of Writ Petition no. 4680/2006 are identical. Learned counsel for the respondents raised the preliminary objection that the present petition cannot be entertained as the prayers sought in the both above petitions are same. He further submitted that petitioner while withdrawing the W.P.(C) No. 4680/2006 did not reserve his right for filing a fresh petition, therefore, present petition is not maintainable.

Learned counsel for the petitioner after making some arguments realized this dilemma and submitted that it would be proper to withdraw the present petition with liberty to approach Hon'ble Delhi High Court for modification of the order dated 17.07.2007 and seeking liberty to file a fresh petition and he requests for the same.

The request of learned counsel for the petitioner is accepted. He is permitted to withdraw this petition with liberty to approach Hon'ble Delhi High Court for modification of order dated 17.07.2007. The petition is accordingly dismissed as withdrawn.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
July 10, 2012
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