

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

44.

OA 4262/2024

POEL(R) Rakesh Kumar Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Rajeev Kumar, Advocate

CORAM

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

ORDER
09.10.2024

Invoking the jurisdiction of this Tribunal under section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and the reliefs claimed are as under:-

(a) To direct the respondents to bring on record all documents in relation to the disciplinary action taken against the applicant with advance copy to the applicant.

(b) To direct the respondents to place on record the proceedings conducted on 118.12.2020 and 31.08.2024 against the applicant.

2. The grievance of the applicant is that he was subjected to a summary trial on 18.12.2020. However, on similar charges another summary trial was conducted on 31.08.2024. The applicant contends that the allegations made in the second summary trial based on an inquiry conducted by a Board of Officers where witnesses were examined were in violation of the principles of natural justice. The applicant was not provided with

certain documents related to the inquiry. The applicant apprehends that he may be subjected to punitive measures including dismissal or removal from service based on this inquiry. In anticipation of such actions by the respondents the applicant has approached this Tribunal.

3. Shri Rajeev Kumar, learned counsel for the respondents, appears on advance notice and raises two preliminary objections:

(a) The first objection is that no cause of action has accrued within the territorial jurisdiction of the Armed Forces Tribunal, Principal Bench, New Delhi. The applicant is posted under the Eastern Command in Visakhapatnam, which falls under the territorial jurisdiction of the Armed Forces Tribunal, Regional Bench, Chennai.

(b) The second objection is that no final action or decision regarding the summary trial conducted against the applicant has yet been taken, rendering the application premature.

4. In our considered view, no application under Section 14 of the Armed Forces Tribunal Act, 2007, can be filed in anticipation of a proposed action that is yet to be taken. The jurisdiction of this Tribunal under Section 14 is limited to dealing with service matters, as defined under Section 3(o) of the Armed Forces Tribunal Act, 2007. Until and unless a cause of action, in the form of an impugned action or order, has arisen the

jurisdiction of this Tribunal is not attracted. The mere apprehension of an anticipated action by the applicant does not confer any right to invoke this jurisdiction. Once the Competent Authority takes a decision and the action is either communicated to the applicant or implemented by the respondents a cause of action will arise and the jurisdiction of this Tribunal can then be invoked. Therefore, at this stage, the cause of action for invoking this Tribunal's jurisdiction has not yet arisen.

5. In light of the above, we dispose of the matter with liberty to the applicant to ventilate his grievance as and when any impugned action is taken, causing him to be aggrieved, which would give rise to a cause of action for adjudication by this Tribunal.

6. Accordingly, The OA stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)