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

74.

CA 1/2025 in OA 2806/2024

Ex Gunner (L /NK) Yamanappa Kamari Applicant
Through His Wife Vijayalaxmi Kuri
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Dikshit Anand, Advocate for
Mr. Anand Kumar, Advocate
For Respondents : Mr. Waize Ali Noor, Advocate

CORAM


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

ORDER
16.01.2025

CA 1/2025

This application has been filed as a contempt application under Section 19 of the Armed Forces Tribunal Act, 2007. The purpose of an application filed under Section 19 is specific to the case of commission and omission indicated therein for which contempt action can be taken. The act of omission and commission complained in this application does not fall within the purview of the acts indicated under Section 19 of the Armed Forces Tribunal Act, 2007 and therefore this application is not maintainable.


2. On account of disobedience or breach/violation of directions issued by this Tribunal, the power of contempt is available to this Tribunal in view of law laid down by a Full


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Bench of this Tribunal in the case of Lt. Col Mukul Dev Vs Shri R.K.Mathur & Ors. (CA 4/2014 in OA 04/2014) decided on 31.07.2024 and a Writ Petition against the decision is pending before the Division Bench of the Hon'ble Delhi High Court on a challenge made by the Union of India and others. That being so, the only power available to this Tribunal is by way of *suo motto* action for breach of directions/orders passed by this Tribunal and accordingly, the applicant should have filed the application in the form of an execution application wherein this Court could exercise *suo motto* powers. In view of the above, office is directed to register this application as a miscellaneous application for execution, re-number it after correction in the record.

3. However, we find from the record that the grievance of the applicant is that his petition falls under Section 164(2) of the Army Act but has not been decided by the Competent Authority in spite of the directions issued by this Tribunal in OA 2803/2024 on 21st August, 2024. The direction issued was to decide the application within a period of three months. Today an order has been produced before us issued by the Competent Authority on 02.11.2024 deciding the petition filed by the applicant under Section 164(2) of the Army Act and it is pointed out by learned counsel for the respondents that for certain administrative reasons the order could not be communicated.



4. Keeping in view the aforesaid subsequent changes that took place in the matter, the application is disposed of with liberty to the applicant to challenge the subsequent action in accordance with law consequent to the order passed by 02.11.2024.

5. CA/MA stands disposed of.

[REDACTED]
[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Priya
CA 1/2025