

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 1183/2024 with MA 2185/2025 & MA 4544/2024

Col Anjan Kumar Sinha **Applicant**

VERSUS

Union of India and Ors. **Respondents**

For Applicant : in Person
For Respondents : Mr. Karan Singh Bhati, Sr. CGSC with
Mr. Yogeshwar Krishnan Purohit, Ady
Maj Satvik Grover, OIC, Legal Cell

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)

ORDER

The applicant, a serving Colonel of the Indian Army bearing No. IC 57396 N vide the present OA makes the following prayers:-

"8. RELIEF SOUGHT:

In view of the facts mentioned above in Para. 4 the individual prays for the following relief(s):

- 1. To grant Hon'ble Tribunal be pleased to pass an order for the petitioner to complete his tenure at AFT Mumbai.*

2. This Hon'ble Tribunal may further be pleased to hold and declare that repatriation is not on administrative exigency grounds and hence illegal and arbitrary and the Applicant is entitled to continue for the tenure of three years with all consequential benefits.

3. That the Costs of the application and the compensation against mental harassment and humiliation be provided for.

4. Alternately, that the individual be given full tenure of 24 months in Mumbai as applicable where it was curtailed for 15 months in the eve of reparation after having been relieved for minimum 24 months for the tenure.

5. That if This Hon'ble Tribunal is not pleased to pass on order as prayed for in prayer one then the tribunal be pleased to allow the applicant for all other deputations without any cooling off period."

2. The applicant has also prayed for grant of interim relief to the effect:-

"9. INTERIM RELIEF PRAYED FOR

1 That This Hon'ble Tribunal be pleased to pass an order for the petitioner to complete his tenure at AFT Mumbai.

2 This Hon'ble Tribunal may further be pleased to hold and declare that repatriation is not on administrative exigency grounds and hence illegal and arbitrary and the Applicant is entitled to continue for the tenure of three years with all consequential benefits.

3 That the Costs of the application and the compensation against mental harassment and humiliation be provided for.

4 That if This Hon'ble Tribunal is not pleased to pass on order as prayed for in prayer one then the tribunal be pleased to allow the applicant for all other deputations.

5 Alternately, the individual be given full tenure of 24 months in Mumbai as applicable where it was curtailed for 15 months in the eve of reparation after having been relieved for minimum 24 months for the tenure

6 That the individual was posted to Hisar for a period of 39 months and at Udhampur for a period of 28 months, That if This Hon'ble Tribunal be pleased to pass an order that the petitioner can be considered an extension period of 24 months so that the individual is able to maintain the stability of the education of his child at one place."

3. The respondents arrayed to the present OA are as under:-

"1. UNION OF INDIA, THROUGH ITS SECRETARY, MINISTRY OF DEFENCE, RAKSHA BHAWAN, SOUTH BLOCK, NEW DELHI 110066

2. THE PRINCIPAL REGISTRAR, ARMED FORCE TRIBUNAL, PRINCIPAL BENCH, WEST BLOCK VIII, RK PURAM, SECTOR 1, NEW DELHI-110006

3. THE REGISTRAR ARMED FORCE TRIBUNAL, REGIONAL BENCH, MUMBAI 7TH FLOOR. MTNL BUILDING, A G BELL MARG. MALABAR HILL. MUMBAI-400006

4. MILITARY SECRETARY BRANCH ARMY THROUGH COAS SECRETARIAT, IHQ OF MINISTRY OF DEFENCE (ARMY) SENA BHAWAN NEW DELHI 110010

4. Counter affidavits dated 02.09.2024, 13.09.2024 and 07.10.2024 have been filed on behalf of the respondent nos 2,3 and 4 respectively. The counter affidavit dated 07.10.2024 of the respondent No. 4 has been adopted on behalf of respondent no. 1 as per submissions made on 29.01.2025. A rejoinder affidavit dated 09.12.2024 has been filed by the applicant and an affidavit as a sur rejoinder dated 27.03.2025 has been filed on behalf of respondent no. 3.

FACTS ON RECORD THROUGH PLEADINGS

5. The applicant had applied for the post of Registrar in the Armed Forces Tribunal, (Regional Bench), Mumbai on deputation basis and vide letter dated 06.05.2022 submitted his acceptance to join on deputation with the Armed Forces Tribunal (Regional Bench), Mumbai. As per the posting order issued vide Signal No. A/12071/AFT/57396/2022/MS-3B dated 04.04.2022, the deputation was for a period of two years from the date of assumption of appointment, extendable by one year at the discretion of the cadre controlling authority in consultation with the borrowing organization which could be curtailed in organizational interest. Vide order F. No. AFT/RBM/ADM/2022 dated

06.05.2022 of the Head of Department of the AFT (RB), Mumbai, the applicant had been delegated powers as Head of Office of the AFT, (RB), Mumbai wef 06.05.2022 (FN) (Friday) till further orders. The applicant on approval of premature repatriation by the Hon'ble Raksha Mantri as per GoI, Ministry of Defence, D(AFT Cell) Seva Bhawan, New Delhi letter No 7(8)/2023-D(AFTC)CONF dated 27.07.2023 vide letter F. No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023 issued by the Deputy Director (D) of the Armed Forces Tribunal, Principal Bench, New Delhi was relieved from the post of the Registrar of the AFT, RB, Mumbai with a direction to report to his parent cadre/organisation.

6. The applicant being aggrieved by the premature repatriation filed OA 330/2023 before the Central Administrative Tribunal (CAT) challenging the same. Vide order dated 19.06.2023, the CAT, Mumbai Bench, Mumbai dismissed the said OA 330/2023 on the grounds of lack of jurisdiction observing vide para 13 to the effect:-

"13. After considering the contentions of the parties in this O.A. and provisions of the Army Act, 1950, AFT Act, 2007, AFT (Practice) Rules, 2009 and provisions of the AT Act, 1985, in our opinion the position is clear as follows:-

(i) The applicant is an officer of the Indian Army, he is governed by provisions of the Army Act, 1950. After approval of the Ministry of Defence he joined on deputation on the post of Registrar of Armed Forces Tribunal, Regional Bench, Mumbai from 06.05.2022. When he is on deputation, he still continues to be an Army Officer and he is governed by provisions of the Army Act, 1950. Being on deputation on the post of Registrar, AFT, Regional Bench, Mumbai, he has not ceased to be an Army Officer. As provided under Rule 146 of AFT (Practice) Rules, 2009 on classification of cases, entry no.8 is about deputation/repatriation/absorption in Govt/public sector. Therefore, relating to deputation and repatriation of the applicant, the jurisdiction lies with the Armed Forces Tribunal, Principal Bench, New Delhi and not with the C.A.T. Therefore, for redressal of grievance against his premature repatriation by the order of the Principal Bench of the Armed Forces Tribunal, he should approach that Tribunal and the jurisdiction on it does not lie with the C.A.T.

(ii). In addition to the above, as is clear from the letter of Ministry of Defence dated 02.06.2023 written to Principal Registrar, AFT, Principal Bench, New Delhi, that the applicant's deputation was approved by the Defence Ministry and conveyed vide letter dated 03.03.2022. Appointment of Group-A officers to the AFT is done with the approval of the Union Defence Minister and, therefore, the order of Armed Forces Tribunal, Principal Bench dated 10.05.2023 for premature repatriation of present applicant has already been treated as null and void by the Defence Ministry. The Ministry has further directed the Registrar, AFT, Principal Bench, New Delhi that in case it wishes to prematurely repatriate the applicant to the parent cadre, it must request the Ministry with a proper justification in this regard. Thus the applicant's grievance with respect to his

premature repatriation by Armed Forces Tribunal, Principal Bench, by order of 10.05.2023 has already been redressed by the Ministry of Defence. Similarly the applicant can also seek redress against the Armed Forces Tribunal, Principal Bench, order of 19.05.2023 if it has not yet been cancelled by the Ministry of Defence, Government of India, New Delhi.

(iii). In view of the above analysis of the issue, we conclude that on the grievance of the applicant related to his premature repatriation, his O.A. cannot be entertained by this Tribunal because of want of jurisdiction and, therefore, it is dismissed. He may seek redress of his grievance with the Armed Forces Tribunal, Principal Bench, New Delhi or alternatively with the Ministry of Defence, Government of India, New Delhi."

7. Vide judgment dated 28.07.2023, the Division Bench of the Hon'ble High Court of Judicature at Bombay rejected the Civil Writ Petition 9407/2023 filed by the applicant herein assailing the order dated 19.06.2023 of the CAT, Mumbai Bench, Mumbai in OA 330 of 2023. Vide paras 16, 17, 18 & 19 of the Hon'ble High Court of Judicature at Bombay in Civil Writ Petition 9407/2023, it was observed to the effect:-

"16. Insofar as the reliance placed on the decision of the Supreme Court in case of Lieutenant Colonel Vijaynath Jha (supra) on behalf of the petitioner is concerned, the same would not be applicable to the facts of the present case. In the said case, the appellant was commissioned in the Indian Army on 11.03.1989 in the Engineering Discipline. The appellant was subsequently selected and inducted in the

Directorate General of Quality Assurance (DGQA) from 31.05.2004. On completion of two years, the appellant was transferred to the Directorate of Indigenisation under DGEME. Quality Assurance Selection Board (QASB) was held at DGQA organisation for selection of the officers of the rank of Lt. Col. and Major for permanent secondment. The appellant was not found fit for permanent secondment by the QASB. The appellant filed a statutory complaint seeking permanent secondment in the DGQA. The complaint was submitted at the time when the appellant was working in the Army. The complaint was forwarded to the Ministry of Defence. Since, the complaint pertained to DGQA organisation, the Government of India, Ministry of Defence, Department of Defence Production by an order dated 17.12.2007 rejected the statutory complaint of the appellant. O.A. No.104 of 2011, was filed by the appellarm before the Armed Forces Tribunal, Regional Bench, Lucknow, praying for quashing the order dated 17.12.2007 and issuing a direction to the respondent to grant permanent secondment to the DGQA organisation with all consequential benefits retrospectively. Before the Armed Forces Tribunal a preliminary objection was raised by the respondent that the relief claimed by the applicant in the OA is not maintainable before the Armed Forces Tribunal. The Armed Forces Tribunal heard the parties on the above preliminary objection and vide order dated 23.08.2012 held the O.A. to be not maintainable. The Armed Forces Tribunal upheld the objection in the following terms as quoted by the Supreme Court in paragraph 4 of the said decision:-

"16. The applicant's main grievance is that he was not considered for permanent secondment, DGQA organisation and we find no breach in the Army Act and the Army Rules and it is a separate organisation with the guideline for induction, appointment and promotion and Service HQ has no role in grant of second tenure of (sic) permanent secondment of any officer under the Army Act. The terms and condition of the service officers in DGQA is not creation of the Army Act or the Army Rules and the Armed Forces Tribunal is not the right forum for

adjudication of DGQA matters. Hence the Original Application is not maintainable and is returned to the applicant with the liberty to file the same before the concerned authority."

In such context, Supreme Court considering the position of law upheld the order passed by the learned Tribunal that it had no jurisdiction. We wonder as to how this decision in any manner would assist the petitioner in the present facts."

17. Insofar as the reliance placed by the petitioner on the decision of the Tribunal in case of LL. Co. R.K. Purohit (supra) is concerned, we would not accept such decision of the Central Administrative Tribunal to be a decision deciding an issue of jurisdiction. This decision would certainly not dissuade us to take a different view that what we have observed above.

18. We may also observe that merely because the petitioner was posted on deputation with the Armed Forces Tribunal, it would not in any manner obliterate or extinguish his basic employment as a member of the armed forces. The appointment on deputation in the present case, would certainly not amount to a change being brought about in the employer of the petitioner. The basic employment of the petitioner and all conditions of service attached to his employment as a member of armed forces have continued to operate. The petitioner is, therefore, not correct in assuming that his employment with the armed forces has come to an end the moment he accepted appointment on deputation and the armed forces tribunal has become his new employer.

19. In the above circumstances, we are certain that the Tribunal has rightly held that it has no jurisdiction to entertain the petitioner's original application. The petition is without merit. It is summarily rejected. No costs."

8. The Special Leave to Appeal (C) No. 16963/2023 filed by the applicant to assail the judgment dated 28.07.2023 of

the Hon'ble High Court of Judicature at Bombay in WP No. 9407 of 2023 was disposed of vide order dated 27.09.2023 of the Hon'ble Supreme Court with the observations to the effect:--

“Though the question of jurisdiction is raised in this petition, presently since the repatriation order has already been implemented, at this juncture we see no reason to interfere with the impugned order.

However, the question of law is kept open to be considered in an appropriate case if it arises for consideration.

The special leave petition is disposed of. Pending application(s) shall also stand disposed of.”

CONTENTIONS RAISED

- ***Contentions of the Applicant***

9. The applicant vide the present OA has submitted to the effect that repatriation cannot be on the whims and fancies of any organization and must be backed by a reasoned order. He *inter alia* submits that there has been a gross violation of the principles of natural justice. The applicant submits that the respondents failed to take a particular stand and went back and forth with the decision of his repatriation which is evident from the fact that the first order of repatriation was communicated to the applicant on 10.05.2023 and he was

directed to report to his parent office whereafter he was granted extension of three months vide order dated 12.05.2023 but vide order dated 19.05.2023, the previous orders dated 10.05.2023 and 12.05.2023 were withdrawn and the petitioner was directed to report to his parent office with immediate effect and that subsequently vide order dated 19.05.2023, the Ministry of Defence intervened and declared the letter dated 19.05.2023 as null and void but vide order dated 27.07.2023, the applicant to his shock and surprise, was repatriated in consultation with the Ministry of Defence.

10. The applicant has submitted that since he was appointed on deputation on the approval of the Hon'ble Raksha Mantri, therefore, the decision, if any, of premature repatriation is to be issued only after approval of the Raksha Mantri and without the same any order of premature repatriation is illegal and arbitrary. The applicant has further submitted to the effect that even though a deputationist may not have a right to continue in the deputation posting, where the deputation is for a specified time, it cannot be curtailed without giving a reasonable opportunity to the affected person. The applicant has further submitted that even if the

curtailment, if any, in the period of specified deputation is possible, the same can only be on the grounds of unsuitability or unsatisfactory performance and an action taken in a post haste manner indicates malice.

11. The applicant has placed reliance on the verdict of the Hon'ble Supreme Court in **Union of India through Govt of Pondicherry and another** versus **V. Ramakrishnan and others**. (2005) 8 SCC 394 on para 32 thereof which observes to the effect:-

32. Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of reversion can be questioned when the same is malafide. An action taken in a post-haste manner also indicates malice. (See *Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia* SCC para 25.)"

12. The applicant has also whilst placing reliance on the verdict dated 21.02.1997 of the Hon'ble Supreme Court in the case of **State of U.P. versus Yamuna Shanker Misra and another** (1997) 4 SCC 7 submitted to the effect that the confidential reports need to be written objectively, fairly and dispassionately, without prejudice, free from bias or personal inclinations.

13. The applicant has further submitted to the effect that in terms of the order of the CAT (PB) New Delhi in OA 4501/2014 in the case of **Dilip Singh Shaktawat vs Union of India and others** dated 29.01.2015, it is only officers with proven track records with a clean image who are picked up and sent on deputation.

14. *Inter alia*, the applicant has submitted to the effect that he was appointed as a Registrar i.e. to a 'Group A' post and even though on deputation basis, the approval of the Hon'ble Raksha Mantri was sought before his appointment on deputation and thus the decision, if any, of premature repatriation is to be based only on the approval of the Hon'ble Raksha Mantri and without the same, it is *non est*.

15. The applicant has further submitted to the effect that the repatriation of the applicant without an advance notice of three months to the lending Ministry /Department and to the employee concerned cannot be made and that the applicant had not been given any such notice. The applicant has further submitted that there existed no basis or reason for any administrative exigency for repatriating him and thus the repatriation is stigmatic, especially when the repatriation was made much before his tenure ended.

16. The applicant submits that he had been appointed as a Registrar of the AFT (RB) Mumbai after qualifying in the interview rounds and because he had cleared the selection procedure and that the untimely and sudden repatriation has hampered the studies of his daughter who was studying in Standard 10 and has caused great mental stress and agony to him and his family.

- ***Contentions of the Respondent No. 3 i.e. Registrar AFT (RB) Mumbai***

17. As submitted vide the counter affidavit on behalf of the Registrar of the AFT, (RB), Mumbai, i.e. Respondent no. 3 though the applicant on selection for the post of Registrar on

deputation had been directed to report to the AFT (RB) Mumbai to assume his appointment on deputation as Registrar, on the contrary, the applicant went to Delhi at his own wish and after visiting the AFT (PB) New Delhi, then reported to Mumbai on 06.05.2022 and submitted a false duty claim on 19.07.2022 to the PCDA (N) Mumbai. It has further been submitted through the counter affidavit on behalf of the respondent no. 3 that whilst the applicant was discharging his functions as Registrar of the AFT, (RB), Mumbai, the tone and tenor of a communication sent to the AFT (PB) New Delhi by the applicant was found to be directory in nature amounting to lack of seriousness in handling the official matters by him and did not meet the norms of ethics and consequentially vide letter F.No. 1(67)/2009/AFT/PB/Adm-II dated 26.09.2022 of the Deputy Director (D) of the AFT (PB) New Delhi, the applicant was advised to avoid such attitude whilst writing or addressing the AFT, (PB), New Delhi in any official matter.

18. The counter affidavit of the respondent no. 3 vide para 4 thereof further states to the effect that during the

applicant's tenure as Registrar at the AFT, (RB), Mumbai, it was observed to the effect:-

"a) As soon as the Applicant reported to this organization he had procured TV with Tata sky broadband without any authorization from the competent authority.

b) The Applicant's behavior towards the staff was very rude and unparliamentarily, to counter this Applicant on 23.06.2023 called the office staff to his chamber and asked them to sign a statement that they have no problem with him. A report in this regard has been forwarded to AFT, PB, New Delhi vide office letter F. No. AFT/RBM/ADM/682/2023 dated 26.06.2023.

A copy of office letter F No. AFT/RBM/ADM/682/2023 dated 26.06.2023 is annexed as ANNEXURE R-3.

c) He did not allow any advocate/ Govt. counselor and visitors to meet HOD without his permission.

d) He had employed 01 MTS (permanent employee) at his residence from December, 2022 to mid-May 2023. Moreover, 02 outsourcing employees (01 dispatch rider and 01 staff car driver) were partially employed for his personal work by the officer as both were residing in nearby premises.

e) He used to keep the motorcycle with Dispatch Rider at his residence and utilize the motor cycle for personal work (M/cycle reading during Jan to Apr 2023 shown 1000 Kms per months however, after May onwards it was 600 Kms)

f) He did not hand over the keys of office almira which was in his possession and on the directives of the PB, New Delhi this office hired key maker to open the Godrej almira thus unnecessarily incurred expenditure of making duplicate key of the cupboard intimation in this regard has been forwarded to PB, New Delhi vide office letter F No AFT/RBM/ADM/270/2024 dated 15.03.2024.

A copy of the office letter F No AFT/RBM/ADM/270/2024 dated 15.03.2024 is annexed as ANNEXURE R-4

g) Budget expenditure for FY 2022-23 of sub heads O/E and I/T (D/E Rs. 25.99,956/- & I/T 7,98,616/- was exceeded compare to previous FY 2021-22 O/E Rs. 11,51,989/- & I/T RS 47,866/-.

h) The officer brought his personal belonging i.e. 04 wooden chairs and one eagle metal memento while joining the office and whilst prematurely repatriated w.e.f 28.07.2023, on several reminders from this office he collected the above personal belongings 01.04.2024.

A copy of receipt dated 01.04.2024 is annexed as ANNEXURE R-5."

19. It has further been submitted vide the counter affidavit filed on behalf of the respondent no. 3 that a complaint was received from the AFT Legal Cell vide a letter dated 25.04.2023 about the non-cooperation of the applicant containing *inter alia* allegations of unruly conduct of the applicant and on receipt of a complaint dated 25.04.2023 from the Hon'ble Judicial Member/HoD, AFT, RB, Mumbai about the inappropriate and unsatisfactory conduct working style of the applicant seeking his repatriation / transfer for better functioning of the AFT (RB) Mumbai, the matter was placed before the Hon'ble the Chairperson for necessary directions in the matter and the applicant was directed to be

repatriated with immediate effect vide letter F. No. 27(22)/2022/AFT/PB /Adm-II dated 10.05.2023.

20. The applicant as per the said letter was prematurely repatriated on administrative exigencies to his parent office i.e. EMAE HQ. MG&G Area. As per the counter affidavit of the respondent no 3, however, in consideration of the applicant's request for additional time, the competent authority allowed the applicant to remain on deputation for 90 days with the condition that he would not be permitted to discharge the duties of the Registrar but despite the letter F. No. 2(43)/2014/AFT/PB/Admin-II dated 12.05.2023, from the AFT (PB) New Delhi stating to the effect:-

"2. IC-57396N Lt. Col Anjan Kumar Sinha, Registrar, Armed Forces Tribunal, Regional Bench, Mumbai, has already been repatriated to his parent office w.e.f. 10th May, 2023. Therefore, Competent Authority has been pleased to direct that Shri V.J. Kale, Deputy Registrar, Armed Forces Tribunal, Regional Bench, Mumbai to look after the responsibilities of the Registrar, Armed Forces Tribunal, Regional Bench, Mumbai, till further orders in addition to his own duties."-

the applicant declined to hand over the charge of Registrar via an e-mail dated 15.05.2023 stating to the effect:-

"Dear Sir,

1. I am thankful to the Honorable CP for giving me extension of three months till 10 Aug 2023

2. I came to know that office order dt 10 May 2023 to relieve immediately was ultra vires as the appointing Authority is Hon'ble Raksha Mantri and Hon'ble CP is the recommending Authority

3. Apropos, I will not be handing over any charge till last day of my posting and assure you that not be of any hinderance to the office functioning

4. I will be seeking Administrative Judicial Review on subject

5. Please treat my letter dated 12 May 2023 cancelled on handing over of confidential documents"

21. It has been further stated in the counter affidavit of the respondent no. 3 that consequentially in such a situation, there was no alternative but to repatriate the applicant to his parent department prematurely, and it is also stated vide para 7 of the said counter affidavit on behalf of the respondent no. 3 that the applicant's unprofessional conduct during his period of deputation indicated that he was not fit to hold the post of Registrar and vide order No. AFT/RBM/Office Order/808/2023 dated 28.07.2023, the applicant was prematurely repatriated to his parent unit i.e. the Indian Army on 28.07.2023.

22. There are further averments made in the Parawise reply to Paras 4.1 to Paras 4.10 of the counter affidavit filed

on behalf of the respondent no 3 i.e. the Registrar of the AFT (RB) Mumbai in relation to allegations against the applicant of:-

- Stated Administrative Mismanagement;
- Issuance of AFT identity cards to housekeeping persons in the Defence Restricted High security area without permission of the HOD;
- Misbehaviour with JAG officers and staff;
- Insistence on shifting of the AFT to another place;
- Financial mismanagement, inclusive of alleged submissions of false claims;
- Mis-use of office car and bike and not giving of requisite information to the HoD, AFT Regional Bench, Mumbai of casualties of a car accident;
- Non supply of requisite audit report in December 22 to the HoD AFT (Regional Bench), Mumbai;
- Drawing of technical allowance by the applicant without any order from the competent authority;

- Granting 30 days salary and overtime at his own discretion not permissible within the discretionary powers of the applicant;
- Human resources mismanagement;
- Misconduct and misbehavior.

23. The affidavit submitted on behalf of the respondent no. 3 thus categorically states that the applicant, a responsible Army Officer who was expected to uphold the highest standards of behaviour befitting his position consistently during his deputation, demonstrated an inability to maintain the required decency and decorum and that his conduct was unbecoming of his rank and also detrimental to the functioning of the institution.

24. It has further been submitted vide the counter affidavit of the respondent no. 3 that in the given circumstances, the competent authority made the decision to repatriate the applicant to his parent department prematurely, which decision was taken in alignment with the principles of maintaining institutional integrity and discipline.

• **Contentions of the Respondent No. 4, as adopted on behalf of Respondent No. 1 also**

25. Vide the counter affidavit filed on behalf of the **respondent no. 4 i.e. the Military Secretary's Branch of the Indian Army**, it has been submitted that vide letter No. 4(15)/58/99/S/ D(MS) dated 25.02.1970 the officers of the Indian Army are posted on deputation as per the Government of India, MoD letter No. 6/8/2009-Estt.(Pay II) dated 17.06.2010.

26. It has been further stated thereby on behalf of the respondent no. 4, that Para I of Annexure II to the letter dated 25.02.1970 which deals with the tenure, provides that the period of deputation should normally be two years and may be extendable on mutual agreement between the Ministry of Defence and the borrowing department and also provides that during the initial or extended period of deputation, the officer will not be recalled nor allowed to revert to the Armed Forces without notice of at least six months.

27. Para 1 of Annexure II to the MoD Policy letter dated 25.02.1970 reads to the effect:-

"1. TENURE: The period of deputation should normally be two years extendable by mutual agreement between the Ministry of Defence and the borrowing, department. During the initial or extended period of deputation, the officer will not be recalled nor allowed to revert to the Armed Forces without notice of at least six months. The officer is, however, liable to be recalled at any time if exigencies of service so necessitate."

28. Respondent no. 4 further submitted that vide an Annexure R3, the posting order issued vide Signal No. A/12071/AFT/57396/2022/MS-3B dated 04.04.2022, the applicant was posted to the AFT (RB) Mumbai as a Registrar and was directed to report by 06.05.2022. The said posting order reads to the effect:-

"POSTING OFFICER (.) FOLLOWING POSTING IS ORDERED (.)

FIRSTLY (.) IC-57396 LT COL ANJAN KUMAR SINHA COMMA EME COMMA HQ MG&G AREA IS POSTED TO ARMED FORCES TRIBUNAL REGIONAL BENCH COMMA MUMBAI AS REGISTRAR (OFFICER TO REPORT BY 06 MAY 2022 (.)

SECONDLY (.) ABOVE NAMED OFFICER IS POSTED ON DEPUTATION FOR A PERIOD OF TWO YEARS FROM DATE OF ASSUMPTION OF APPOINTMENT COMMA EXTENDABLE BY ONE YEAR AT THE DISCRETION OF CADRE CONTROLLING AUTHORITY IN CONSULTATION WITH BORROWING ORGANIZATION WHICH COULD BE CURTAILED IN ORG INTEREST (.)

THIRDLY (.) OFFICER IS DIRECTED TO REPORT TO ARMED FORCES TRIBUNAL PRINCIPAL BENCH COMMA R.K PURAM NEW DELHI () OFFICER ON REPORTING TO NEW PLACE OF DUTY WILL INTIMATE HIS OFFICIAL AND RESIDENTIAL

TELEPHONE NUMBER ALONG WITH E-MAIL ID TO THIS HQ (MS-36) WITHOUT FAIL (.) TERMS AND CONDITIONS OF APPOINTMENT WILL BE REGULATED BY MOD/D(MS) POLICY LETTER NO 4(15)58/99/S/D(MS) DATED 25 FEB 1970 AS AMENDED FROM TIME TO TIME (.)

FOURTHLY (.) AFTER REPORTING TO NEW APPOINTMENT COMMA CHANNEL OF REPORTING CONTAINING DETAILS OF OFFICERS POSTED OBLIQUE SERVING WITH THEIR STATUS (WITH SPECIAL REFERENCE TO RATEE COMMA 10 & RO) MAY PLEASE BE FORWARDED TO REACH MS-4D (CHANNELS) COMMA MILITARY SECRETARY'S BRANCH COMMA ARMY HEADQUARTERS COMMA DHQ PO COMMA NEW DELHI-110011 WITHIN ONE MONTH FROM DATE OF REPORTING (.) SIMILAR PROCEDURE SHALL BE FOLLOWED AS AND WHEN THERE IS CHANGE IN CHANNEL OF REPORTING (.)"

29. The respondent no. 4 further submits that the applicant was prematurely repatriated on administrative exigencies to the parent office and was relieved of his duties vide letter F. No. 27(22)/2022/AFT/PB//Admin-II dated 10.05.2023 but vide letter F. No. 27(22)/2022/AFT/PB/ Admin-II dated 05.06.2023, the premature repatriation order dated 19.05.2023 issued by the AFT (PB) New Delhi was kept in abeyance till further orders and that vide letter No. F. No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023, the applicant was relieved from the post of the Registrar AFT (RB) Mumbai.

30. The letter F No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023 reads to the effect:-

OFFICE ORDER

In pursuance of the Government of India, Ministry of Defence, D (AFT Cell), Sena Bhawan, New Delhi letter No. 7(8)/2023-D(AFTC)/CONF dated 27th July. 2023, Hon'ble Raksha Mantri has approved the premature repatriation of IC-57396N Lt Col Anjan Kumar Sinha, an officer of Indian Army who is presently on deputation as Registrar at Armed Forces Tribunal, Regional Bench, Mumbai.

2. Accordingly, Lt Col Anjan Kumar Sinha is hereby relieved from the post of Registrar of AFT, RB, Mumbai with immediate effect with a direction to report to his parent cadre/organisation.

3. This Office letter No. 27(22)/2022/AFT/PB/Admin-II dated 05th June, 2023 is hereby superseded.

*xxx/-
(Bhagat Singh)
Deputy Director (D)"*

31. Vide the counter affidavit on behalf of respondent no. 4, it has been submitted to the effect that vide para 8.4 of the DoPT letter No. 6/8/2009- Estt. (Pay II) dated 17.06.2010, there is a mandatory 'cooling off' period of three years provided after every period of deputation/Foreign Service up to Joint Secretary level posts and one year for Additional Secretary level posts.

• **Contentions of the Respondent No. 2**

32. The counter affidavit filed on behalf of the respondent no. 2 i.e. the Principal Registrar of the AFT, (PB), New Delhi, vide para III states to the effect:-

“...The assertion that the Applicant's service record is entirely unblemished and spotless is a claim that the Applicant must substantiate with evidence. The fact that the Applicant was prematurely repatriated from his deputation to the AFT before completing the full term of his deputation raises questions about his conduct and suitability for the role he was assigned. The decision to repatriate the Applicant was not taken lightly but was necessitated by circumstances that reflected on his performance and behavior during the period of deputation.”

33. Vide para IV of the said counter affidavit on behalf of respondent no. 2, it is stated to the effect:-

“IV. The DoPT Office Memorandum dated 17.06.2010 generally requires a 90-day notice period for the repatriation of officers on deputation. However, specific circumstances may justify immediate repatriation without the standard three months' notice. These circumstances typically involve serious issues such as misconduct, insubordination, performance significantly below expectations, security risks, or a breakdown in trust and working relations between the deputationist and the host department. In the Applicant's case, although he was initially allowed to continue on deputation for an additional 90 days, he was not permitted to discharge the duties of Registrar during this period due to concerns about his conduct. Despite this extension, the Applicant's behaviour did not improve to the level expected of his

rank and position. His conduct during the extended period demonstrated that he was not fit to hold the post of Registrar, leading to the decision for his premature repatriation. As a responsible Army officer, he was expected to maintain the highest standards of conduct, but his actions during the deputation period failed to meet these expectations, thereby justifying his repatriation."

34. Vide para V of the said counter affidavit of respondent no. 2 it is stated to the effect:-

"V. The decision to repatriate the Applicant prematurely was made in the best interest of maintaining the integrity, discipline, and proper functioning of the Armed Forces Tribunal. Throughout his deputation, the Applicant consistently exhibited behaviour that was unbecoming of his rank and detrimental to the institution's operations. The Competent Authority, in an effort to avoid causing permanent damage to the Applicant's career, chose to repatriate him to his parent department rather than initiate formal disciplinary proceedings, which could have resulted in more severe consequences. This decision was aligned with the principles of maintaining institutional order and discipline while also considering the Applicant's future career prospects. The Applicant was directed to report to his parent department immediately, and even during the notice period, his behaviour remained unsatisfactory. The failure to properly hand over his duties upon repatriation was contrary to the expectations of an officer of his rank and position, further underscoring the need for his immediate return to his parent department."

35. Vide the counter affidavit of the respondent no. 2, it has been submitted to the effect that the term "Deputation"

can be described as an assignment of an employee from one department or cadre to another to fulfill the necessity which arises in 'public interest' to meet the exigencies of 'public services' and is based on a tripartite agreement involving the consent of a parent cadre, the borrowing cadre and the employee. It is further submitted on behalf of the respondent no. 2 that this arrangement remains valid as long as all the three parties agree to its continuation, but that if any one party, chooses to terminate the agreement, the other two cannot enforce the continuation of the deputation.

36. It is further submitted on behalf of respondent no. 2 that deputation being a temporary and contractually-based arrangement, the same does not inherently grant the deputationist any right to either complete the full term of deputation or to seek regularisation in the borrowing department and that the basic principle underlying deputation is that the person concerned can always, and at anytime be repatriated to their parent department to serve in their substantive position at the instance of either the parent or borrowing department.

37. It is further submitted on behalf of the respondent no. 2 that this reversion is consistent with the principle that deputation is a temporary arrangement and that there is no vested right for the deputationist to continue or to be absorbed in the borrowing department.

38. *Inter alia*, on behalf of the respondent no. 2 it has been submitted to the effect that there are certain circumstances where immediate repatriation without the standard three months notice can be justified and that such circumstances typically involve serious concerns or urgent needs. It is further submitted on behalf of the respondent no. 2 that if the deputationist is involved in misconduct, insubordination, or any other serious disciplinary violation, immediate repatriation may be necessary to maintain the integrity and order of the department. Further, the respondent no. 2 has submitted that if the deputationist's performance is significantly below expectations and their continued presence is detrimental to their department's functioning, immediate repatriation might be considered and also, if the deputationist poses a security risk or if his continued presence compromises sensitive operations or

information, immediate repatriation can be enforced. It has also been submitted on behalf of the respondent no 2 that if there is a severe breakdown in the trust of working relations between the deputationist and the host department, making it untenable to continue, premature repatriation without the three months notice becomes essential.

39. On behalf of the respondent no. 2 it is further submitted that throughout his deputation period in the AFT, the applicant consistently demonstrated an inability to maintain the required decency in decorum and his conduct was not only unbecoming of his rank but also detrimental to the functioning of the institution and that the decision was taken in alignment with the principles of maintaining institutional integrity and discipline and therefore a detailed reasoned order was deemed unnecessary.

40. It has also been submitted on behalf of the respondent no. 2 that even during the three months notice period, the behaviour of the applicant was unexpected as that of an Army Officer and instead of taking any disciplinary proceedings against him with a view to avoid any permanent dent in his career, the competent authority deemed it fit to

repatriate him to his parent office. It has further been submitted on behalf of the respondent no. 2 that even when the order of immediate premature repatriation was ordered, it was the responsibility of the applicant to follow the procedures by handing over the charge of the position which he had held in the borrowing department and that failure to do so is against the interests of the institution.

41. Reliance was placed on behalf of the respondent no. 2 on the verdicts of:-

- the Hon'ble High Court of Punjab and Haryana in **Gurinder Pal Singh** versus **State of Punjab** 2004 SCC OnLine P&H 1367;
- the Hon'ble Supreme Court in **Rattilal B. Soni** vs **State of Gujarat**, 1990 Supp SCC 243;
- the Hon'ble Supreme Court in the case of **Kunal Nanda** vs **Union of India**, (2000) 5 SCC 362,
- the Hon'ble High Court of Delhi in **Mukesh Chandra Tiwari** vs **Union of India** 2015 SCC OnLine Del 12254 and
- the Hon'ble Supreme Court in **Union of India** vs **V Ramakrishnan** (2005) 8 SCC 394, _

in support of the contentions raised by them that deputation does not confer any right upon the deputationist neither for completion of the term of deputation nor regularization of such a stop-gap arrangement and that the deputationist can be reverted to the parent cadre at any time and does not get any right to be absorbed in the deputation post in the absence of any statutory rule, regulation or order having the force of law.

42. On behalf of the respondent no. 2 it has been submitted to the effect that in the instant case, the decision to repatriate the applicant was taken by the urgency and seriousness of his conduct which necessitated immediate action to maintain the institution's integrity and discipline, and that the need for a detailed reasoned order in the given circumstances was outweighed by the pressing requirement to address the applicant's conduct promptly and it is thus submitted on behalf of the respondent no 2 that the facts of the instant case are distinguishable from the facts of the case before the Hon'ble Supreme Court in ***Union of India vs V Ramakrishnan*** (supra) relied upon by the applicant, which underscores the importance of transparency and necessity of

providing reasons for administrative decisions and upholding of procedural fairness.

43. Likewise, the respondents submit that the facts of the instant case are not in *pari materia* with the facts of the case before the Hon'ble Supreme Court in ***State of U.P. versus Yamuna Shanker Misra and another*** (supra) and that in the present case, the disclosure of the serious complaints against the applicant could have seriously impacted his career and his reputation and thus the competent authority chose not to detail the reasons in the repatriation order to avoid causing irreversible damage to the applicant's career and rather the focus was on maintaining the integrity of the institution and addressing the serious concerns related to his conduct.

- ***Submissions of the Applicant in Rejoinder***

44. The applicant vide his rejoinder affidavit dated 09/12/2024 has refuted all contentions raised on behalf of the respondent nos. 2 and 3, and has *inter alia* referred to internal disputes and office politics at the AFT (RB) Mumbai and has submitted a table summarising key responses and grievances as under:-

S.NO	PARAGRAPH NO.	PAGE NO.	BRIEF SUMMARY
1.	2	97	The officer moved as per orders from the parent organization. Upon arrival at the Principal Bench, met the Registrar, Hon'ble Chairperson, and staff, and joined as Registrar, Mumbai. Briefed about office politics at the Regional Bench Mumbai and cautioned. Personal joining application submitted to the Principal Registrar. Historical issues regarding Army officers at Regional Benches were also highlighted.
2.	3	98	A letter was sent under the Registrar's directions, as instructed by the HoD. This was routine correspondence to expedite delayed processes. The allegations against this act are unfounded.
3.	4(a)	99	A TV was procured following approval from the HoD and according to procurement guidelines. The purchase complied with GFR rules for expenditures under ₹25,000. Allegations of inappropriate behavior were due to staff discontent with strict administration enforcing punctuality
4.	4(c)	100	Entry to the HoD's office was regulated per his explicit directions. This practice continued even after a new HoD assumed charge, as instructions were issued.
5.	4(d)	100	Allegations of personal employment of staff are false. Two outsourced employees were officially assigned for office work. One was previously a taxi driver and never used for personal tasks. Official vehicles were effectively utilized when

			<i>necessary.</i>
6.	4(f)	100	<i>Confidential documents were handed over to the PPS; however, no acknowledgment was given. Budget increases during tenure were justified by new initiatives such as establishing the Circuit Bench at Goa, all approved by the HoD.</i>
7.	4(h)	100	<i>Temporary accommodation challenges led to permission from the HoD to store household items in additional space at AFT. Items were retrieved promptly, and no misuse occurred</i>
8.	5	102	<i>Complaint received via RTI was responded to appropriately and shared with the Chairperson, HoD, and administration. The originating letter's authenticity remains questionable, with indications of malice and improper procedural handling.</i>
9.	6	103	<i>Allegations of misconduct by the Deputy Registrar were reported but not acted upon. This led to seeking recourse through appropriate forums. Respondent concealed facts regarding MoD directions to relieve the Deputy Registrar</i>
10.	7	103	<i>Despite Supreme Court orders, Regional Bench Mumbai continued to write damaging letters to the officer's unit, affecting his image and resulting in an OA for harassment. Respondent failed to adhere to proper communication protocols.</i>
11.	HRM	110	<i>Allegations of favoritism, corruption, and misuse of manpower were unsubstantiated. Strict monitoring and CCTVS were introduced to curb malpractice. Employees' dissatisfaction</i>

			<i>stemmed from accountability measures, not misconduct by the officer. Payment to outsourcing employees were given after approval by section officers, (Refer Annexure 17</i>
12.	Misconduct	111	<i>All communications followed appropriate channels. All mails were first sent to Justice Shukla and then to Honorable Chairperson. Allegations of procedural lapses and misconduct are baseless, with supporting documents provided. Disciplinary concerns involving Mr. Kale and others were raised with proper evidence.</i>

• **Contentions in Sur-Rejoinder of Respondent No. 3**

45. Vide a sur rejoinder dated 27.03.2025 submitted on behalf of the respondent no. 3 to the rejoinder of the applicant, the averments made in the counter affidavit on behalf of the respondent no. 3 dated 13.09.2024 have been reiterated with it having been stated that the repatriation of the applicant was done in public interest and as a routine administrative transfer and that there is no question of harassment to the applicant.

ANALYSIS

- ***Jurisdictional Issue***

46. At the outset, it is essential to observe that during the course of arguments addressed on behalf of the respondents, it was vehemently sought to be contended that this Tribunal had no jurisdiction in relation to the prayers made by the applicant in as much as he was a deputationist with the Armed Forces Tribunal in terms of the Government of India, MoD Policy letter No 4(15)/58/S/D(MS) dated 25.02.1970 and DoPT letter No 6/8/2009-Estt. (Pay II) dated 17.06.2010 and that the jurisdiction, if any, lay with the Hon'ble Central Administrative Tribunal. In relation to this contention, which has been vehemently urged on behalf of respondents by the learned counsel, all that is essential to observe is that the order dated 19.06.2023 of the CAT, Mumbai Bench, Mumbai with observations in para 13 thereof already referred to elsewhere hereinabove in para no 7 have been upheld by the Hon'ble High Court of Judicature at Bombay vide judgment dated 28.07.2023 in CWP 9407 of 2023 vide observations in paras 18 and 19 thereof as have already been adverted to in para no 8 hereinabove.

47. As observed already in para no. 9 hereinabove the Special Leave to Appeal (C) 16963/2023 filed by the applicant herein assailing the judgment dated 28.07.2023 of the Hon'ble High Court of Judicature at Bombay in CWP 9407 of 2023 has been disposed of vide order dated 27.09.2023 with observations as already reproduced hereinabove in para no. 9 observing that though the question of jurisdiction was raised in the petition, since the repatriation order had already been implemented at that juncture, the Hon'ble Supreme Court found no reason to interfere with the impugned order, though the question of law was kept open to be considered in an appropriate case if it arose for consideration. The submission thus made on behalf of the respondents to the effect that since the question of law had been left open vide the order dated 27.09.2023 of the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 16963/2023 and that thus **the aspect of consideration of the jurisdiction of the Armed Forces Tribunal in the present application of the applicant to challenge his repatriation can be considered by this Tribunal, cannot be accepted.**

48. This is so in as much as in the specific circumstances of the instant case in relation to the applicant, Colonel Anjan Kumar Sinha, who has since been repatriated to his parent department, i.e. the Indian Army vide letter F. No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023 in pursuance of the Government of India, Ministry of Defence, D (AFT Cell), Sena Bhawan, New Delhi letter No 7(8)/2023-D(AFTC)/CONF dated 27.07.2023 whereby the applicant has been relieved from the post of Registrar of AFT, RB, Mumbai with immediate effect with the direction to report to his parent cadre/organisation and the Hon'ble Supreme Court vide order dated 27.09.2023 in Special Leave to Appeal (C) No. 16963/2023 having specifically observed that in the instant case the repatriation order had already been implemented and thus there was no reason to interfere with the implementation order, though the question of jurisdiction was raised in the petition, it is not considered appropriate to even consider the submissions raised during the course of arguments on behalf of the respondents qua the stated lack of jurisdiction of the Armed Forces Tribunal to consider the present prayers.

49. It cannot be overlooked also that there is not a whisper of an assertion or an averment in the counter affidavits of the respondent nos 2, 3 and 4 to contend to the effect that this Tribunal has no jurisdiction to consider the present OA, which OA, we hold has essentially to be considered in view of the order dated 27.09.2023 of the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 16963/2023.

• ***Repatriation with Approval of Appointing Authority***

50. As regards the contention of the applicant that his repatriation was ordered vide letter F. No. 27(22)/2022/AFT/PB//Admin-II dated 10.05.2023 with immediate effect without the requisite three months notice, it is essential to observe that vide letter F. No. 27(22)/2022/AFT/PB/Admin-II dated 05.06.2023, the premature repatriation order dated 19.05.2023 issued by the AFT (PB) New Delhi was directed to be kept in abeyance till further orders and subsequently vide letter F. No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023 on the approval of the Hon'ble Raksha Mantri, as per Government of India, the letter No. 27(22)/2022/AFT/PB/Admin-II dated

05.06.2023 issued by the AFT (PB) New Delhi was superseded.

51. Placed on record as an Annexure 2 to the rejoinder affidavit dated 09/12/2024 of the applicant is the letter F. No. 7(4)/2023-D(AFTC) dated 02.06.2023 to the Principal Registrar, AFT (PB) New Delhi from the Deputy Secretary to the Government of India, Ministry of Defence which states to the effect:-

"Sir,

I am directed to refer to AFT(PB)'s order No.27(22)/2023-AFT/PB/Admin-II dated 10.05 3023 on the captioned subject and to state that the appointment of Lt Col Anjan Kumar Sinha was approved by the Ministry and conveyed accordingly vide letter No. 7(5)/2021-D(AFTC) dated 03.03.2022

2. It is stated that the office order dated 10.05.2023 issued by AFT(PB) stating the premature repatriation of Li Col Anjan Kumar Sinha may be treated as NULL & VOID. Further, AFT(PB) is advised that in case, it wishes to prematurely repatriate an official serving in the Armed Forces Tribunal back to his/her Parent Cadre, AFT(PB) must request the Ministry with a proper justification in this regard Moreover, since the appointment authority of Group-A Officers in AFT is Hon'ble Raksha Mantri, hence it is not in the purview of AFT(PB) to pressaturely repatriate any Group-A officer without prior consent of the Ministry.

This issues with the approval of Hon'ble Raksha Mantri."

52. It is apparent thus that consequentially the office order dated 27.07.2023 F. No. 27(22)/2022/AFT/PB/Admin-II has been issued on approval having been accorded by the Hon'ble Raksha Mantri of the premature repatriation of the applicant herein as per letter No. 7(8)/2023-D(AFTC)/CONF dated 27.07.2023.

53. **The contentions thus raised by the applicant to the effect that he having been deputed on the post of a Registrar, a Group A post could not have been repatriated by the AFT (PB) New Delhi itself without the approval of the Hon'ble Raksha Mantri stands redressed as indicated vide the letter F. No. 27(22)/2022/AFT/PB/Admin-II dated 27.07.2023.**

- ***Repatriation without three months Notice***

54. A contention was raised by the applicant that he ought not to have been repatriated without the requisite advance notice of at least three months to him and to the lending Ministry / Department in terms of para 9 of the DoPT Office Memorandum No. 6/8/2009-Estt. (Pay II) dated 17.06.2010 which reads to the effect:-

“9 Premature reversion of deputationist to parent cadre.

Normally, when an employee is appointed on deputation/ foreign service, his services are placed at the disposal of the parent Ministry/ Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/ Department and the employee concerned.”

55. As regards the said contention though undoubtedly vide order dated 29.09.2023 in OA 86/2023 of AFT (RB) Kolkata in OA 86/2023 in the case of **Sub Suresh Rajput vs UOI & Ors**, which is co-authored by one of us (Justice Anu Malhotra, Member (J)), it has been observed by this Tribunal that the requisite compliance of para 9 of the DoPT letter dated 17.06.2010 which reads to the effect:-

“9 Premature reversion of deputationist to parent cadre.

Normally, when an employee is appointed on deputation/ foreign service, his services are placed at the disposal of the parent Ministry/ Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/ Department and the employee concerned.”

has necessarily to be made with observations in paragraphs 37, 38 and 40 thereof in **Sub Suresh Rajput** (supra) to the effect:-

"37. However, in as much as has already been observed hereinabove that a deputationist does not have an indefeasible right to continue on his deputation post, in the instant case w.e.f. from the date 06.09.2023 when the applicant was served with the repatriation order No.29/2023 calling upon him to be repatriated w.e.f. 30.09.2023 i.e. the period from 06.09.2023 till 05.12.2023 has to be and shall be treated to be a period of an advance notice in terms of Para 9 of the DOPT letter dated 17.06.2010 .That the requisite compliance of Para 9 of the Office Memo dated 17.06.2010 has necessarily to be complied with is brought forth through the verdict of the High Court of Delhi in W.P.(C) 451/2021 in the case of **Shri Raj Kumar Vs National Human Rights Commission** wherein the aspect of requisite compliance of Para 9 of the said OM has been has been referred as under:

"Insofar as the stipulation in the said OM that the employee also need to be notified is concerned, suffice to state the office order dated October 07,2019, clearly stipulates that the deputation of the petitioner shall be governed by the terms and conditions contained in the said OM. Para 9 of the said OM, which is under the heading premature reversion of deputationist to parent cadre, also stipulates giving three months' notice to the employee concerned, and which notice has not been given to the petitioner herein, though he has been prematurely repatriated. Mr. Garg is justified in his submission that premature repatriation of the petitioner is in violation of OM dated June 17, 2010. The issue can also be seen

from the perspective that when an Officer is sought to be premature repatriated, the borrowing authority is required to follow the principles of natural justice as held by the Supreme Court in the case of P Venugopal(supra) wherein in para 39 the Supreme Court inter alia held curtailment of time of five years can only be made for justifiable reasons and in compliance with principle of natural justice. No doubt, the case of the respondent in the counter affidavit is that the petitioner was being constantly guided and advised to improve his performance which he failed to improve and there was no alternative with the authority concerned, to repatriate the petitioner back to his parent department which depicts the compliance of principles of natural justice, is not appealing. There is nothing on record to show such an action/procedure was followed up by the respondent/NHRC and for that matter, the petitioner was put to notice if he does not improve his performance he shall be repatriated back after three months. **Hence, on this ground as well, the premature repatriation of the petitioner shall be in violation of OM dated June 17,2010, which clearly stipulates three month's notice to the petitioner."**

(emphasis supplied)

38. The orders dated 17.08.2022 and dated 22.08.2022 of the Division Bench in WP(C) 12122.2022 and WP(C) 11913/2022 in the case of **Rajendra Kumar & Ors Vs Union of India & Ors** and in **Suresh Chand &Ors Vs Union of India &Ors** respectively are to the similar effect wherein it was observed vide paras 4,5,6 and 7 in both the said verdicts to the effect:

"4. Learned counsel appearing for the petitioners has drawn attention of this Court to Clause 9 of the Office Memorandum bearing no. 6/8/2009-Estt. (Pay II) dated 17.06.2010 wherein it is stated as under:-

Premature reversion of deputationist to parent cadre

Normally, when an employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/Department and the employee concerned.

5. As per the averment made in the present petition, Clause 9 mentioned above has not been complied with.

6. Accordingly, we hereby dispose of the present petition by directing the respondents to issue advance notice in terms of Clause 9 above.

7. However, till then, the petitioners shall continue to operate at their deputed place(s) of posting.”

Order dated 30.06.2017 of the Central Administrative Tribunal,(PB)New Delhi in OA No.2766/2017 in the case of Madhav Chaturvedi Vs Union of India & Ors is to similar effect.

39.xxxxxx

CONCLUSION

40. Thus, in as much as there has been no compliance of the DOPT letter dated 17.06.2010, as observed hereinabove, the period from 06.09.2023 to 05.12.2023 i.e. the period from the date of receipt of the repatriation Order dated 02.09.2023 received by the applicant till the expiry of three months' notice therefrom i.e. till 05.12.2023 shall be the deemed period of an advance notice as required in terms of Para 9 of the DOPT letter dated 17.06.2010, as the advance notice to the lending Ministry/Department as well as to the applicant herein JC 8834903L Sub Suresh

Rajput and thus the repatriation of the applicant to his parent department is stayed till the date i.e. 05.12.2023 and the repatriation order dated 02.09.2023 No.29/2023 received by the applicant on 06.09.2023 shall take effect from 06.12.2023.”,-

it cannot be overlooked that in the instant case, the repatriation has already been effected with effect from 27.07.2023 as also so observed, vide order dated 27.09.2023 of the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 16963/2023. The circumstances of the instant case in OA 1183/2024 presently under consideration are distinguishable from that in OA 86/2023 of the AFT (RB) Kolkata.

56. In these circumstances, we do not consider it appropriate to reflect on the aspect of the grant/non grant of a period of three months of notice prior to repatriation on 27.07.2023, as the same is now rendered superfluous.

57. Furthermore, in the instant case it cannot be overlooked that as per Annexure II letter No 4(15)/58/99/S/D(MS) already adverted to hereinabove in para no 23 & Annexure III letter No 4(15)/59/99/S/D(MS) dated 25.02.1970 to the Government of India, Ministry of Defence, it has been stipulated to the effect:-

“1. TENURE: The period of deputation should normally be two years extendable by mutual agreement between the Ministry of Defence and the borrowing department. During the initial or extended period of deputation, the officer will not be recalled nor allowed to revert to the Armed Forces without notice of at least six months. The officer is, however, liable to be recalled at any time if exigencies of service so necessitate.”

58. As per the said terms and conditions of the personnel deployed with the Armed Forces on deputation, it has been stipulated categorically vide Annexure II letter No 4(15)/58/99/S/D(MS) & Annexure III letter No 4(15)/59/99/S/D(MS) to the Government of India, Ministry of Defence both dated 25.02.1970 that **the Armed Forces officer is liable to be recalled at anytime if the exigencies of service so necessitate.** The aspect that cannot be overlooked however is that the non issuance of the notice of a period of three months in the circumstances of the instant case, apparently as per the pleadings on the record, was for the maintenance of the institutional dignity of both the Ministry of Defence as well as the Armed Forces Tribunal, as also for preventing any damage to the career of the applicant as stated in the counter affidavit filed on behalf of respondent no. 2.

59. Significantly, vide order dated 12.05.2023 No. 2/AFP/PB/Admin-11 of the AFT (PB), New Delhi, it has been specifically stated to the effect:-

“
ARMED FORCES TRIBUNAL
Principal Bench.
West Block-VIII, Sector-1
R.K.Puram, New Delhi

2/AFP/PB/Admin-11

12th May, 2023

Lt Col Anjan Kumar Sinha
Armed Forces Tribunal
Regional Bench, Mumbai
New Delhi

Repatriation from deputation

*Please refer to your letter No.AFT/RBM/
Registrar/549/2023 dated - 12.05.2023.*

I am directed to inform you that it is well settled law that the deputationists have no legal right to continue in the borrowing departments and that the deputationists can be repatriated to their parent cadre at any point of time without assigning any reason.

2. The question of Investigating any allegations does not arise, as you have been prematurely repatriated not on the basis of indiscipline but only on administrative exigencies. However, based on your communications dated 10th & 11th May, 2023, the competent authority has accepted your request for retention on deputation for a period of w.e.f. 10th May, 2023 subject to condition that you will not be allowed to discharge the duties of Registrar and further that competent authority may transfer you to any of the Regional Benches as requested by you. On completion of above 90 days' retention period, be relieved from the services of AFT.

This issues with the approval of the Competent Authority.

Yours faithfully.

Xxxx/-

(Bhagat Singh)

Deputy Director"

(emphasis supplied),_

thus stating that the applicant had not been prematurely repatriated on the basis of indiscipline but only on administrative exigencies.

60. In these circumstances, apparently the repatriation of the applicant as already observed elsewhere hereinabove in view of the misgivings between the applicant, respondent nos. 2 and 3 as per pleadings on the record, was only to put a quietus thereto and for the best interests of all organizations involved, as well as in the best interest of the applicant.

61. **Significantly, it cannot be overlooked that the order F. No. 27(22)/2022/AFT/PB/Adm-II dated 10.05.2023, which reads to the effect:-**

" OFFICE ORDER

Reference this office letter No. 7(693/2020/AFT/PB/Admin-II dated 08th April, 2022.

2. The Competent Authority is pleased to direct that IC-57396N Ld. Col Anjan Kumar Sinha, an officer of Indian Army presently

working in Armed Forces Tribunal, Regional Bench, Mumbai as Registrar on deputation basis w.e.f. 06th May, 2022 is to be prematurely repatriated on Administrative Exigencies ground to his parent office i.e. EMAE HQ. MG & G Area. Therefore, the officer is hereby relieved of his duties with immediate effect to report to his parent office.

3. Service Book of the officer during deputation period has been maintained by the parent office of the officer.”,

as well as order dated 12.05.2023 and 27.07.2023 are all wholly innocuous and refer to the repatriation of the applicant, *without any observations in relation to his tenure whilst on deputation at the AFT (RB) Mumbai.* Likewise, the Relieving Order No. AFT/RBM/Office Order/808/2023 dated 28.07.2023 attached to the sur rejoinder of the respondent no 3 dated 27.03.2025 also is wholly innocuous.

62. Inasmuch as the repatriation orders do not cast any stigma on the applicant, the contention raised by the applicant that there has been a violation of the principles of natural justice by not giving him a notice of three months prior to his repatriation also cannot be accepted.

63. Furthermore, as regards the contention raised by the applicant that he be allowed to complete the minimum period

of 24 months on deputation, it is well settled that a deputationist does not have an indefeasible right to continue on his deputation post. As observed hereinabove, the pleadings on the record, i.e. through the OA filed by the applicant, the counter affidavits of the respondent nos. 2 and 3, the rejoinder thereto of the applicant and the sur rejoinder on behalf of respondent no. 3,- all bring forth several misgivings between them which do not augur well both for the Indian Army, i.e. the lending department, nor for the Armed Forces Tribunal to which the services of the applicant had been lent.

64. In the circumstances, it is essential to observe that whilst vide order dated 02.05.2024, notice of the OA was issued to the respondents, it had been observed by this Tribunal to the effect:-

"....The applicant has filed written submissions on 30.04.2024 which vide para-9 thereof inter alia state to the effect:-

"for fraudulent promotion done by erstwhile Honorable Member Retired Justice Mishra in his capacity of officiating Chairperson somewhere in 2016-17. Current HoD Retired Justice Shailendra Shukla is a brother in Law of Retired Justice Mishra."

which are wholly scandalous and are expunged from the record. Presently no interim relief is granted.”,-

expressly that presently no interim relief was granted.

65. Furthermore, despite the submissions in para 9 of the written submissions filed by the applicant on 30.04.2024 having been expunged from the record, in the rejoinder affidavit dated 09/12/2024, the averments to that effect were sadly sought to be reasserted by the applicant vide para 1 thereof. Though the respondent No. 3 vide its sur rejoinder dated 27.03.2025 seeks initiation of contempt proceedings against the applicant for the same, though we express our anguish qua the said averments, made by the applicant in the rejoinder affidavit dated 09.12.2024, we do not consider it expedient to spend valuable public time qua the same.

- ***Requirement of four months Notice in Advance before Repatriation***

66. As per the rejoinder affidavit, the applicant has also submitted that in terms of the Annexure 1 to the MoD policy dated 25.02.1970 vide para 10, which reads to the effect:-

“10. When an officer's tenure of service is likely to be over, intimation should be sent to this Ministry at least 4 months in

advance in cases of deputation in INDIA and about six months in advance in cases of deputation abroad, to facilitate the issue of his posting orders, Ministry of Defence should also be informed whether a relief for the officer is required and if so, what the terms and conditions of deputation for the relieving officer will be. In case no information is received in advance as desired above, no request for extension of deputation will be considered by this Ministry except in a very special case.”,

to submit thus that a period of 4 ½ months notice was required to be issued to the Indian Army, which the applicant submits was not adhered to in the instant case.

67. As regards this submission, it is essential to observe that the said para 10 of the Annexure 1 to the MoD letter dated 25.02.1970 relates to the issuance of the notice **when an officer's tenure of service is likely to be over** and not in a case, where there was still a substantial period of tenure left and thus the facts of the instant case are wholly distinguishable.

68. The applicant has placed reliance on the order dated 08/09/2010 of the Central Administrative Tribunal Bombay Bench, Mumbai in OA 387 of 2010 in the case of **Sushovan Banarjee, IPS, Chief Executive Officer, Children's Film Society, India** versus **Union of India and others**, where the

applicant thereof who had been appointed on deputation basis initially for a period of three years vide an order dated 05/12/2008 raised a grievance in relation to the abrupt curtailment of the deputation vide an impugned order dated 26.04.2010 just after a period of about 16 months or so in which case it was observed vide para 20 of the order of the CAT Mumbai that the applicant thereof was adhering to rules and regulations of the organisation and instructions of the Government of India in relation to an austerity drive and it was further observed explicitly vide the said order that a premature termination of deputation is possible only on the ground of unsatisfactory work or some proved misconduct and in the facts of that particular case, the interim order dated 02.06.2010 directing the respondents to continue that applicant in his post, initially for a period of two weeks, was made absolute by the CAT Mumbai.

69. In relation to the said submission, as already observed by us elsewhere hereinabove at the cost of necessary repetition, it is essential to state that, it is brought forth through the pleadings on the record through the OA and the counter affidavit of the respondent nos 2 and 3 that

the misgivings between the parties do not augur well for the institutions i.e. of the Indian Army and the Armed Forces Tribunal nor for the applicant and thus in the facts and circumstances of the instant case, it cannot be held that the repatriation of the applicant back to his parent department was any act of malice, especially as observed in para no. 62 hereinabove, the repatriation orders do not cast any stigma on the applicant and are wholly innocuous in content.

MA 2185/2025

70. Vide order dated 20.05.2025 in MA 2185/2025, we have already observed to the effect that we did not consider it appropriate to issue notice of MA 2185 of 2025 filed on 01/10/2024 by the applicant vide diary no 9826 of 2024 which is an application filed by the applicant seeking the following prayers:-

“In view of the aforementioned facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

1. Direct the respondents to provide a detailed explanation for the overnight relieving order done by a non-competent authority of the applicant, considering that there were no disciplinary issues against him.

2. **Initiate an independent investigation or recommend an inquiry into the irregular appointment and elevation of Shri Vilas Kale, as well as other similar cases of illegal promotions and irregular financial claims within the Armed Forces Tribunal (AFT).**

3. **Ensure that separate legal representation is appointed for each respondent to avoid any conflict of interest in the proceedings.**

4. **Mandate the Ministry of Defence to address and investigate the issues raised by the applicant, including the alleged harassment and damage to military reputation of the officer resulting from the respondents' actions post-relieving.**

5. **Issue appropriate interim relief to the applicant to prevent any further adverse impact on his career and Officer be allowed to apply for further deputations as there has been no disciplinary action envisaged against him and a waiver of three years be waived off.**

6. **Conduct a review of the employment practices within the AFT, particularly the recruitment and pay allowances of ex-servicemen employed on a contractual basis, to ensure compliance with government guidelines and prevent misuse of central funds.**

7. **Ensure that the Applicant be given a full tenure of three years in Mumbai as the Applicant was prematurely relieved from a peace station in 18 months from tenure.**

8. **Address the procedural and administrative inefficiencies within the AFT, including the delay in uploading orders and the high expenditure on litigation, to enhance the overall functioning and credibility of the Tribunal.**

AND/OR

Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice and fairness.”_-

in as much as prayer clauses 2, 3, 6, 8, in fact relate to aspects of administrative issues pertaining to the Ministry of Defence and the Armed Forces Tribunal,- the same are not considered appropriate for judicial determination in this *lis*, i.e. in this OA 1183/2024, the prayers whereof as detailed in para 8 and 9 of the OA 1183/2024 have been considered by us. The determination of issues raised vide prayer clauses 1, 5, 7 are already being considered through the consideration of the present OA and the pleadings on the record and no fresh notice thereof, is therefore considered essential of the said prayers in MA 2185/2025 as all these aspects have been already deliberated in the analysis hereinabove. MA 2185/2025 is thus disposed of accordingly.

CONCLUSION

71. In the circumstances of the instant case, the prayer made by the applicant that he be allowed to continue for the tenure of three years with all consequential benefits as the Registrar of the AFT (RB), Mumbai cannot be granted.

- **Cooling-Off Period for further Deputation**

72. As regards the submissions that were made during the course of the hearing by the applicant, that the mandatory 'cooling off' period of three years to apply for any deputation by the applicant be relaxed, as was also prayed for vide prayer 8(5) of the OA, qua which vide para 6 of the counter affidavit dated 07/10/2024 of the respondent no 4 in terms of para 8.4 of the DoPT letter No. 6/8/2009- Estt. (Pay II) dated 17.06.2010, it is stated to similar effect that there is a mandatory 'cooling-off' period of three years after every period of deputation/foreign service up to Joint Secretary level posts and one year for Additional Secretary level posts, in relation to which there was a similar prayer at para 5 of MA 2185 of 2025, *though the applicant did not ultimately press for the same, in the interest of justice, it is directed that in the event of any application being filed by the applicant to seek any further deputation it is open to the applicant to seek relaxation of the said terms and conditions of the mandatory 'cooling off' period of three years after the period of deputation of /Foreign service in terms of para 8.4 read with para 10 of the DoPT*

**letter No. 6/8/2009- Estt. (Pay II) dated 17.06.2010
which vide para 10 thereof provides to the effect:-**

“10. Relaxation of conditions. Any relaxation of these terms and conditions will require the prior concurrence of the Department of Personnel & training.”,-

by seeking such relaxation, if any, in accordance with the concurrence of the Department of Personnel and Training.

73. The OA 1183/2024 and the pending MAs, if any, are thus disposed of accordingly.

Pronounced in the Open Court on 1 day of July, 2025.

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

**[JUSTICE ANU MALHOTRA]
MEMBER (J)**

AP