

**ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 1716/2023

Lt Col Hitesh Khanna

..... Applicant

Versus

Union of India and Ors.

..... Respondents

For Applicant

: Mr. Ajit Kattar, Advocate

For Respondents

: Mr. Karan Singh Bhati, Sr. CGSC

Order reserved on 29.08.2025

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14, of the Armed Forces Tribunal, Act 2007, the applicant has filed this OA. The relief claimed in para 8 of the OA is to quash and set aside the impugned letter dated 13.03.2023 (Annexure A-1) by which an application submitted by the applicant to grant additional attempt for study leave exam has been rejected. The grievance of the applicant is to grant waiver of one time relaxation of age to the applicant and grant study leave for additional attempt to participate and qualify in a departmental examination.

2. Facts in brief indicate that the applicant was commissioned into the Army Medical Corps on 05.03.2009 as a Short Service Commission Officer. He was posted as Regimental Medical Officer

in 14th Battalion the Rajput Regiment under the new rising 56 Mountain Division. After two years of mandatory service, the applicant applied for DPC in December, 2021. Various issues were involved and finally the applicant was granted Permanent Commission in the Army Medical Corps w.e.f. 02.01.2012. As per the policy, prevalent an Short Service officer had to complete seven years of service before applying for appearing in a PG course and the Permanent Commissioned officers on the other hand has to complete mandatory four years of service before applying for the PG entrance examination.

3. On account of various reasons, the applicant could not qualify in the NEET PG Examination and it seems that as he had completed the number of chances available, for various reasons, he applied for an additional chance and grant of study leave which has been rejected.

4. As a preliminary objection has been raised by the respondents in the matter, we are not going into the detailed facts with regard to the working and other particulars as detailed in the Application except to say that by the impugned order an application submitted by the applicant for permitting him an additional attempt for study leave to prepare for the examination has been rejected and therefore, he is before this Tribunal with the

relief as claimed for in para 8 which includes grant of an additional attempt for study leave exam.

5. Respondents have filed a detailed reply and have raised a preliminary objection with regard to maintainability of this OA. They invited our attention to the definition of service matter as contained in Section 3(o) of the Armed Forces Tribunal Act, 2007. The definition of Section 3(o) reads as under:-

"3(o) "service matters", in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include—

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

(iii) summary disposal and trials where the punishment of dismissal is awarded;

(iv) any other matter, whatsoever,

but shall not include matters relating to-

(i) orders issued under section 18 of the Army Act, 1950 (46 of 1950), sub-section (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950 (45 of 1950); and

(ii) transfers and postings including the change of place unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);

(iii) leave of any kind;

(iv) Summary Court Martial except where the punishment is of dismissal or imprisonment for more than three months"

6. The second part of the definition as indicated hereinabove is an exclusion clause and as per Sub Clause (iii) of the exclusion clause, leave of any kind. Accordingly, transfer and posting as contained in clause (ii) are excluded from the definition of service matter and, therefore, it is the contention of the respondents that as study leave is also excluded from the jurisdiction of this Tribunal by virtue of the Provisions of Section 3(o) Sub clause (ii) and (iii), this Tribunal has no jurisdiction to deal with the matter.

7. Learned counsel invites our attention to a judgment of the Delhi High Court in WP(C) No.5455/2021 to say that leave of any kind does not come within the purview of service matter as defined under Section 3(o) of the Armed Forces Tribunal Act, 2007 and, therefore, this Tribunal does not have any jurisdiction in the matter.

8. Learned counsel also invites our attention to an order passed by a coordinate Bench of this Tribunal in OA No.1049/2023 (*Lt. Col. Ajay Kumar Vs. UOI and Ors.*) decided on 13.05.2025, in that case also a prayer made by an officer of the Army Medical Corps for grant of study leave had been rejected on the ground that the same is not a service dispute within the meaning of Section 3(o) of the Armed Forces Tribunal Act.

9. Learned counsel further invites our attention to a judgment rendered by the Delhi High Court in WP(C) No.11248/2025 (*Wg. Cdr. Tejbir Singh Vs. UOI and Ors.*) decided on 11.08.2025 wherein an Order passed by this Tribunal in OA No.2203/2025 (*Wg. Cdr. Tejbir Singh Vs. UOI and Ors.*) was dismissed on the ground that grant of Study leave is beyond the jurisdiction of this Tribunal and in para 7 of the aforesaid judgment, the fact with regard to the jurisdiction of this Tribunal was brought to the notice of this Tribunal. A Writ Petition filed was decided by the learned High Court on merit only because the OA filed for grant of study leave, it was observed by the Hon'ble High Court as indicated in para 7 reproduced hereinabove that the OA filed before this Tribunal was obviously misdirected as the Tribunal did not have jurisdiction in the matter.

10. From the aforesaid facts, it is clear that not only this Tribunal in *Lt. Col. Ajay Kumar* (supra) and *Wg. Cdr. Tejbir Singh*(supra) have taken consistent view that leave of any kind, including study leave, is not a service matter within the meaning of Section 3(o) of the Armed Forces Tribunal Act, and an OA under Section 14 is not maintainable before this Tribunal and even the Hon'ble Delhi High Court in the case of *Wg. Cdr Tejbir Singh*(supra) having appreciated this issue and having held that

the OA filed by the applicant therein was obviously misdirected, exercised its jurisdiction under Article 226 of the Constitution and adjudicated the dispute on merit.

11. Keeping in view the aforesaid facts and circumstances, as discussed hereinabove, we find that the grievance of the applicant for grant of study leave is beyond the jurisdiction of this Tribunal and, therefore, in the absence of jurisdiction being available to this Tribunal by virtue of the statutory provisions as contained in Section 3(o) wherein the definition of service matter is provided which clearly excludes the jurisdiction of this Tribunal, we are of the considered view that this Application is not maintainable. We, therefore, dispose of the same with liberty to the applicant to take recourse to such remedy as may be available in law for ventilating his grievance.

12. With the aforesaid, the OA stands disposed of. There shall be no order as to costs.

13. Pronounced in open Court on this the 9 day of October, 2025.

[Justice Rajendra Menon]
Chairperson

[Lt Gen C.P. Mohanty]
Member(A)

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