

**ARMED FORCES TRIBUNAL, CHANDIGARH  
REGIONAL BENCH AT CHANDIMANDIR**

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MA 2716 of 2013 and OA 3132 of 2013

**Rajender Singh** ..... **Petitioner(s)**  
**Vs**  
**Union of India and others** ..... **Respondent(s)**

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For the Petitioner (s) : Major (Retd) K Ramesh, Advocate  
For the Respondent(s) :

**Coram: Justice Vinod Kumar Ahuja, Judicial Member.**  
**Lt Gen (Retd) NS Brar, Administrative Member.**

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**ORDER**  
**06.12.2013**

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1. This order shall dispose of an application filed by the petitioner under Section 22(2) of the Armed Forces Act, along with main petition.

2. Briefly stated the facts as alleged by the petitioner are that the petitioner was enrolled in the Armoured Regiment in the Indian Army and was posted to HQ Squadron 57 Armoured Brigade located at Hisar on 15.03.2010. It was alleged that on 13.06.2010 he was informed by Risaldar Joginder Singh directing him to come to his bed in the night with intention of unnatural sex. The matter was reported to the superior authorities but no substantial action was taken. It was further alleged that after few days Subedar Bikram Singh also made the statement calling the applicant to his bed. He made a complaint but thereafter the petitioner was harassed.

3. It was further alleged that on 10.01.2011/02.02.2011 a legal notice was sent to the respondents regarding the harassment caused to the applicant. It was intimated vide Annexure A-1 dated 02.02.2011 that a Court of Inquiry has been ordered and appropriate

action will be contemplated on completion of Court of Inquiry. Thereafter the petitioner served another notice under Section 80 CPC upon the respondents.

4. On 03.09.2012 the petitioner filed an application requesting the respondents to hand him over a copy of the findings of the Court of Inquiry, which was not handed over to the applicant nor any reply was given. Petitioner alleged that he waited patiently for six months but when no action was taken against the alleged defaulters he filed the present application along with an application for condonation of delay of four months in filing the petition.

5. Before issuing any notice to the respondents we have considered the question as to whether the application is within time or not and as to whether any case is made out for condonation of delay in filing the present application.

6. The facts of the case are clear that the alleged action directing the petitioner to come to their bed by the two persons named took place on 13.06.2010. Petitioner has not alleged as to when he made the complaint but as per the allegations he sent legal notice to the respondents on 10.01.2011 and 13.04.2011. When no reply was received by the petitioner he should have waited for maximum period of six months from the date of cause of action and then filed the complaint. According to him he issued the notice subsequently. However, in spite of the fact that the petitioner was informed vide letter dated 02.02.2011 that a Court of Inquiry has been ordered and he waited for the result, but did not take any action and thereafter prayed that he was not informed in regard to the final order passed in Court of Inquiry. He was aware on 02.02.2011 when the respondents replied to

him that a Court of Inquiry has been ordered and he knew that it must have concluded within few months. Even taking the date as six months from 02.02.2011 no application was filed by the petitioner before this Tribunal within six months from the said date when he was not informed of the result of Court of Inquiry.

7. Sections 21 and 22 of the AFT Act define the conditions under which an application can be admitted for consideration at AFT. These read as under:-

*“21. Application not to be admitted unless other remedies exhausted :*

*(1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950) as the case may be, and respective rules and regulations made thereunder.*

*(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950, (45 of 1950) and respective rules and regulations—*

*(a) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;*

*(b) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.”*

8. Thus the cause of action on point of limitation arose on 10.06.2010. Section 22 of AFT Act prescribes the conditions for acceptance of applications from limitation aspect. It reads as under:-

**“22. Limitation :-**

(1) The Tribunal shall not admit an application—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(b) in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(c) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the

redressal of such grievance had been commenced before the said date before the High Court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may admit an application after the period of six months referred to in clause (a) or clause (b) of sub-section (1), as the case may be, or prior to the period of three years specified in clause (c), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.”

9. It is, therefore, clear that the petitioner was required to file the application when the inquiry was not completed and he was not informed in spite of the notice dated 10.01.2011 and 13.04.2011 but he did not file the complaint within six months and when he filed the complaint he alleged that still there was a delay of 4 months, which was not explained by him.

10. Thus, the present petition can be said to be time barred. The petitioner has not claimed any relief for setting aside any order passed by the respondents, but his simple grievance is that no action was taken on his complaint against the two officers. It is for the respondents to consider as to whether there is any substance in the complaint filed by the petitioner or not. Their duty was to hold a Court of Inquiry, clear the facts and come to some conclusion and on that basis if there was any substance in the complaint then only the respondents could have proceeded against the said two persons. However, in case still the petitioner had the grievance he should have filed the complaint after six months when no action was taken on his complaint and the present application having been filed on 11.07.2013 can be said to be hopelessly time barred.

11. Regulation 364 of the Defence Services Regulations, Regulations for the Army provides for complaints by any person subject to the Army Act who deems himself wronged by any superior

or other officer. The petitioner has also not availed such remedy under the Regulations and as provided for under Section 21 of the Armed Forces Act, 2007.

12. No case law was cited in support of his submissions by learned counsel for the petitioner.

13. In view of the above discussion, we hold that there is no merit in the petition also, which stands dismissed accordingly on grounds of limitation and merit.

**(Justice Vinod Kumar Ahuja)**

**(Lt Gen (Retd) NS Brar)**

06.12.2013

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Whether the judgment for reference is to be put on Internet? Yes/ No