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WA-452-2020

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 2nd OF FEBRUARY, 2026WRIT APPEAL No. 452 of 2020*VIKRAM SINGH GURJAR**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

Shri Purushottam Sharma, Advocate for appellant.

Shri Praveen Kumar Newaskar, Dy. Solicitor General for respondents/UOI.

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ORDER

Per. Justice Anand Pathak

Appellant is taking exception to order dated 12.12.2019 passed in W.P. No.23209/2019, whereby petition preferred by the petitioner got dismissed on the ground of maintainability of the petition.

2. Learned Writ Court held that matter pertains to recruitment to the Indian Army and, therefore, it is maintainable before the Armed Forces Tribunal as per Armed Forces Tribunal Act, 2007.

3. Counsel for appellant placed full Bench decision of Armed Forces Tribunal, Principal Bench, New Delhi in bunch of original applications, in which, O.A. No.17/2015 (Kaptan Singh Vs. Union of India and others) was the leading case, in which, it is held that matter pertains to recruitment in Indian Army is not to be heard and decided by the Armed Forces Tribunal.

4. Relevant paragraphs are reproduced as under:



"34. Therefore, we have no hesitation in holding that as far as the present applicants are concerned, the disputes pertaining to their selection, which have been canvassed in these cases, are matters that fall beyond the jurisdiction of this Tribunal inasmuch as there were procedures followed at a stage which was before they became subject to the Army Act, Navy Act or the Air Force Act, as the case may be, and, therefore, any dispute pertaining to the recruitment/appointment at that stage is beyond our jurisdiction. The jurisdiction of this Tribunal would arise only if the 'service matters', as defined in Section 3(0) of the AFT Act, come into existence i.e. when a person has been subject to the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, and, in our considered view, the learned Division Bench of the Allahabad High Court having decided the controversy as dealt with herein above, in categorical and specific terms, we have no hesitation in accepting and following the same. On the contrary, we may, with great respect, state that the Hon'ble Rajasthan High Court, while deciding the case in Nathulal Gurjar (supra), did not consider various legal issues, particularly the principle of interpretation of Statutes and the Legislative intent and arrived at a conclusion based on an isolated reading of certain words in the definition which, in our considered view, does not lay down the correct law., with which we, with due respect, would disagree.



35. Accordingly, we answer the reference by holding that as the applicants are not subject to the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, this Tribunal has no jurisdiction to deal with the matter and the dispute canvassed by them in the applications filed under Section 14 of the AFT Act does not fall within the ambit of 'service matters' defined in Section 3(o) of the AFT Act. The reference is answered accordingly.

36. Having done so, normally the matters should have been sent back to the respective Regional Benches of the Tribunal for consideration on merits, but in these cases, we find. that the only issue involved for the present is as to whether the applications were maintainable and as we have found that the preliminary issue raised by the learned counsel representing the Union of India is valid, we see no reason to keep the matters pending and remit the same back for consideration to the Regional Benches."

5. Counsel for respondents fairly accepts the passing of such order. He informs this Court that the matter is yet to be decided on merits.

6. Considering the submissions and fact situation in view of the reference answered by Full Bench of Armed Forces Tribunal while discussing different provisions of Armed Forces Tribunal Act, 2007, it appears that in view of the subsequent order passed by Full Bench of Armed Forces Tribunal, impugned order has to pale into oblivion. Resultantly, it stands set aside. The writ petition is revived to its original number, wherein



petitioner may raise all the pleadings and grounds on merits and respondents shall file reply as early as possible. Since it is a matter of recruitment and long time has lapsed, therefore, learned Writ Court is requested to proceed as expeditiously as possible in accordance with law.

7. Petition stands **allowed and disposed** of as above.

(ANAND PATHAK)
JUDGE

(ANIL VERMA)
JUDGE

Abhi