

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5319 OF 2026

Subedar Patil Rajendra Shivaji (Retired) .. Petitioner
Versus
Union of India and Ors .. Respondents

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Adv. Shekhar Ingawale & Adv. Brig Janesh Khera and Adv. Madhav Chavan for the Petitioner.
Adv. Amarendra Mishra for UOI.
Smt. Sangeeta D. Shinde, APP for the State.

**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATED : 14th OCTOBER, 2026

ORAL JUDGMENT (PER BHARATI DANGRE J):-

1. The present Petition is filed raising a challenge to the order passed by the Armed Forces Tribunal, Regional Bench, Mumbai in Original Application No. 22 of 2026, filed by the Petitioner, who superannuated from service on 31/10/2024. The Original Application was filed by invoking Section 14 of the Armed Forces Tribunal Act, 2007, for quashing and setting aside the charge-sheet dated 15/05/2025 and thereafter setting aside the finding and sentence imposed upon him.

The Petitioner claim that after his superannuation, a charge-sheet was served upon him and he was tried by General Court Martial (GCM) and it is on 08/10/2025, on the proceedings of GCM having culminated, he was found guilty of the First to Sixth charges, and a

penalty of dismissal was imposed upon him and he was also directed to suffer rigorous imprisonment for seven years.

Being aggrieved by the aforesaid action, he filed the Original Application (OA) before the Armed Forces Tribunal, at Mumbai.

2. Before the Armed Forces Tribunal at Mumbai, the Respondent raised an objection regarding the lack of territorial jurisdiction, on the ground that the General Court Martial proceedings against the Applicant were conducted at Tibri Military Station at Punjab and no cause of action arose within the territorial jurisdiction of AFT, Mumbai. It was therefore claimed that the jurisdiction would lie with the Bench within whose territorial limits the cause of action substantially arose.

Accepting the said objection, by specifically reproducing Rule 6 of AFT Rules, 2008 the Tribunal arrived at the following conclusion:-

“7. The above provision clearly provides for jurisdiction of the Tribunal where the applicant is posted for the time being or was last posted or attached or where the cause of action wholly or in part has arisen.

8. Clearly in the instant matter, no cause of action has arisen either wholly or in part in the territorial jurisdiction of AFT, Mumbai Bench. The incident has taken place in Amritsar and GCM proceedings have been conducted at Tibri Military Station, Punjab.

9. Further, the applicant is neither posted presently within the territorial jurisdiction of Mumbai nor was last posted or attached at a place which falls within territorial jurisdiction of AFT, Mumbai. His permanent address or place of residence after service is not one of the places for determination of territorial jurisdiction as per Rule 6 of AFT (Procedure) Rules, 2008. His place of attachment was HQ 96 Infantry Brigade which is at Amritsar only.”

3. Applying the principle of *Forum convenience*, it concluded that the O.A. in respect of the subject matter was not maintainable and it was dismissed for want of territorial jurisdiction.

4. We have heard learned counsel Mr. Ingawale, for the Petitioner and learned counsel Mr. Amarendra Mishra, representing the Respondent.

By consent of parties, we deem it appropriate to issue 'Rule', which is made returnable forthwith.

The only limited point for consideration before us is whether the order passed by the Tribunal can be justified in light of Rule 6 of the AFT Rules, 2008, which determines the place of filing application.

The Armed Forces Tribunal Act, 2007, is a statute which provides for adjudication or trial by the Armed Forces Tribunal of disputes and complaints with respect to commission, appointments, enrollments and conditions of service in respect of persons subject to The Army Act, 1950, The Navy Act, 1957 and The Air Force Act, 1950 and it also contains a provision for appeals arising out of orders, findings or sentences of court martial which are passed.

The Original Application came to be filed by the Petitioner/the Applicant by invoking Section 14 of the Act, as by virtue of the said provision, the Tribunal is empowered to exercise the jurisdiction, in regards to an order pertaining to any service matter and the Tribunal is vested with powers of the Civil Court under the Code of Civil Procedure, 1908, akin to the powers to be exercised while trying the suit. It is also empowered to decide the question of law and fact that

may be raised. Similarly, the Tribunal also have the power in relation to an appeal filed against any order, decision, finding or sentence filed by a Court Martial under Section 15.

5. O.A. being filed under Section 14 r/w Section 15 of the Armed Forces Tribunal Act, the objection was raised about the jurisdiction of the Armed Forces Tribunal, Regional Bench, Mumbai and we have already noted the reasoning by the Tribunal by placing reliance upon Rule 6 of AFT Rules, 2008.

On careful reading of the said Rule, where Rule 6, which is also reproduced in the impugned order, according to us, the inference arrived at by the members of the Armed Forces Tribunal is completely erroneous. For the sake of convenience, we deem it appropriate to reproduce Rule 6:-

“6. Place of filing application.- (1) An application shall ordinarily be filed by the applicant with the Registrar of the Bench within whose jurisdiction-

(i) the appeal is posted for the time being, or was last posted or attached; or

(ii) where the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairperson the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 14 or section 15 of the Act, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1), a person who has ceased to be in service by reason of his retirement, dismissal, discharge, cashiering, release, removal, resignation or termination of service may, at his option, file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.”

6. The Tribunal has commented upon Clause (1) of Rule 6, as to what would be the place where the application shall be filed and in normal circumstances, it would be where the person is posted or last

posted, or where he was attached or where the cause of action wholly or in part has arisen. However, the Tribunal completely ignored sub-Clause (2) of Rule 6, which clause exists irrespective of what has been stated in sub-rule (1) and it opens with a non-obstante clause, clearly contemplating that a person who has ceased in service either by his retirement, dismissal, discharge etc, he has an option to file an application before the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

It appears to us that the Tribunal has completely missed out the said provision.

7. The O.A. was filed by the applicant on 29/12/2025 after his superannuation on 31/10/2024 and therefore, as a retired employee he was entitled to exercise the choice available to him under sub-clause (2) of Rule 6 of the AFT Rules, 2008.

Apparently, the Tribunal has completely missed sub-clause (2) and therefore arrived at a conclusion that the Mumbai Bench has no jurisdiction. The said finding cannot be sustained in the wake of the meaningful reading of Rule 6 with both of its parts i.e. sub-clause (1) and sub-clause(2) and there can be no other inference, which can be drawn to the effect that a retired, dismissed, removed employ can take recourse to sub-clause (2) and can exercise a choice.

8. In the wake of the aforesaid, we quash and set aside the impugned order dated 25/09/2026. Rule is made absolute.

The Original Application (O.A. No. 22 of 2026), filed by the Applicant is restored to the file of the Tribunal for its adjudication on

merits.

As far as the Interim relief is concerned, we grant liberty to the Petitioner/ Applicant in O.A to move the Tribunal immediately, as we have already restored the proceedings to the Tribunal.

(ASHISH S. CHAVAN, J.)

(BHARATI DANGRE, J.).