

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17846 of 2010

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1. Uday Kumar-748910b Cpl (Corporal) S/O Sri Radheshyam Poddar
R.D.O./Fit Head Quarter C.A.C. (U), A.F., Bamrauli, Allahabad-12, At
Present Residing At Maraiya, P.S.- Arwatta, Distt.- Khagaria (Bihar)

.... Petitioner/s

Versus

1. The Union Of India Through Air Of The Chief Staff, New Delhi
2. The Union Of India Through Air Officer Commanding-In-Chief Central
Air Command A.F., Allahabad
3. The Commanding Officer, Head Quarter C.A.C. (U), A.F., Bamrauli
4. Anil Sachdeo, Wing Commander, Commanding Officer Head Quarter
C.A.C. (U), A.F. Allahabad
5. Wing Commander Officer-In-Chief P.I. (B.I.S.C., Allahabad
6. Wing Commander Member District Court Martial, Bamrauli, Allahabad-
12
7. Sqn Ldr. Member T.N.B. Singh (23790), Bamrauli, Allahabad-12
8. Sqn Ldr. Member Himani Pandey (25036) Lgs 29 Wg., A.F. Bamrauli,
Allahabad-12 Null Null
9. Judge Advocate Sqn Ldr. R.S. Pabla (24970) Adm/Lgl Of Head Quartr
C.A.C., I.A.F. Bamrauli, Allahabad-12
10. D. Vedajma Wing Commander Presiding (19539) F (P) Head Quarter
C.A.C., F.A.F. Bamrauli, Allahabad -12
11. 706325 F. Sergeant R.M. Sanjeed I.A.F./P Of 24 P And S.U., A.F.,
Bamrauli, Allahabad
12. 900807 A Corporal D.C. Balwal I.A. F/P Of 24 P And S.U., A.F.,
Bamrauli, Bamrauli, Allahabad
13. Om Prakash 60289/ N.M.W.O.R.D.O. Fit Of Head Quarter C.A.C. (U)
Bamrauli, Allahabad
14. Sri G.S. Gujral, Air Marshal, Bamrauli, Allahabad-12

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Adv

For the Respondent/s : Mr. Rajesh Kr Verma C.G.C

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 23-06-2015 Heard learned counsel for the parties.

Having regard to the admitted position that the
petitioner was employed in the Indian Air Force and had



been removed from service after holding the Court Martial proceeding by order dated 22.07.2006, which stands affirmed in the appellate order dated 20.07.2010, this writ application in view of the preliminary objection raised by the learned counsel for the respondents, must be held to be not maintainable, in terms of Section-3(O) and 14 of the Armed Forces Tribunal Act.

Learned counsel for the petitioner, however, submits that as this writ application was filed on 27.10.2010, and the Tribunal has been vested with the power to entertain an application only filed within a period of six months of the cause of action, the petitioner may be prejudiced on account of dismissal of this writ application at this stage.

In the considered opinion of this Court, while the petitioner will have to approach the statutory forum i.e the competent Armed Forces Tribunal, but then the Tribunal also will have to keep in mind that this writ application has remained pending for a period of more

than four and a half years and is being disposed of only today by holding it to be not maintainable.

In that view of the matter, if the petitioner files his application before the competent Armed Forces Tribunal within a period of two months from today, the Tribunal instead of non suiting the petitioner on the ground of delay would decide the matter on merits.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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