

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.08.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P.No.17929 of 2015
and
M.P.No.1 of 2015

Sankar Rao Raghumandala ... Petitioner - in - Person

Versus

1. Registrar,
Armed Forces Tribunal,
Regional Bench, Chennai.
2. Summary Court Martial,
Represented by Commanding Officer,
19, Madras.
PIN-911 414, C/o. 99APO
3. Union of India,
Represented by Secretary,
Ministry of Defence,
New Delhi.
4. Chief Of Army Staff,
Integrated Head Quarters,
Of Mod (Army) Post-Dho,
New Delhi.

5. Ramesh P.Velankannie

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records in respect of the orders of Armed Forces Tribunal Bench, Chennai in No.64 of 2014 dated 05.03.2015, issued by the first respondent to quash the same and to direct the respondents 1 to 4 to reinstate the petitioner into the service with all monetary benefits.

For petitioner : No Appearance
For Respondents : Mr.J.Vasu for
Mr.G.Venkatesan, CGSC for R3

O R D E R

(Order of the Court was delivered by S.MANIKUMAR,J.)

Record of proceedings shows that on 23.06.2015, there was no representation for the petitioner. Hence, Registry has been directed to post the case next week.

2. On 30.06.2015, there was no representation for the petitioner. Hence, Registry has been directed to post the case after two weeks. On 14.07.2015, the learned counsel for the petitioner was absent and the learned counsel for the respondents was also absent. Hence, Registry has been directed to post the case after two weeks. On 28.07.2015, record of proceedings states as hereunder:

"Post next week"

3. Today also there is no representation for the petitioner.

4. Challenge in this writ petition is to the order made in O.A.No.64 of 2014 of the Armed Forces Tribunal, Regional Bench, Chennai dated 05.03.2015 and to the order of the Summary Court Martial dated 23.05.2012.

5. By inviting the attention of this Court to Section 30 of the Armed Forces Tribunal Act, 2007, Mr.J.Vasu, learned counsel representing Mr.G.Venkatesan, learned Central Government Standing Counsel appearing for the third respondent submitted that the writ petition is not maintainable under Article 226 of the Constitution of India and he further submitted that as per Section 30 of the Armed Forces Tribunal Act, 2007, an appeal would lie to the Honourable Supreme Court of India as against the final decision or order of the Tribunal.

6. Considering the objection regarding maintainability of the writ petition, we deem it fit to Section 30 of the Armed Forces Tribunal Act, 2007, and extracted hereunder:

"30.Appeal to Supreme Court:- (1) Subject to the provisions of Section 31, an appeal shall lie to the Supreme Court against the final decision or order of the Tribunal (other than an order passed under Section 19):

Provided that such appeal is preferred within a period of ninety days of the said decision or order:

Provided further that there shall be no appeal against an interlocutory order of the Tribunal.

(2) An appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt:

Provided that an appeal under this sub-section shall be filed in the Supreme Court within sixty days from the date of the order appealed against.

(3) Pending any appeal under sub-section (2), the Supreme Court may order that-

(a) the execution of the punishment or the order appealed against be suspended; or

(b) if the appellant is in confinement, he be released on bail:

Provided that where an appellant satisfies the Tribunal that he intends to prefer an appeal, the Tribunal may also exercise any of the powers conferred under clause (a) or clause (b), as the case may be."

7. From the reading of the aforesaid provision it is manifestly clear that as against the final decision or order of the Tribunal (other than an order passed under Section 19), an appeal would lie to the Honourable Supreme Court of India within sixty days from the date of the order appealed against. Further as extracted supra, record of proceedings shows that the petitioner had absented on more than three occasions.

8. Thus, without going into the merits in this case and in the light of Section 30 of the Armed Forces Tribunal Act, 2007, we hold that this writ petition is not maintainable. Accordingly, this Writ Petition is dismissed. Registry is directed to return the original impugned orders of the Armed Forces Tribunal, Regional Bench, Chennai dated 05.03.2015 and the order of the Summary Court Martial dated

23.05.2012, after getting an attestation from the learned counsel for the petitioner. The petitioner is at liberty to workout his remedy as per the provision of the Statute. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

1. Registrar,
Armed Forces Tribunal,
Regional Bench, Chennai.
2. The Commanding Officer,
Summary Court Martial,
19, Madras.
PIN-911 414, C/o. 99APO
3. The Secretary,
Union of India,
Ministry of Defence,
New Delhi.
4. Chief Of Army Staff,
Integrated Head Quarters,
Of Mod (Army) Post-Dho,
New Delhi.

+1cc to Mr.G.Venkatesan, Advocate, S.R.No.40510

W.P.No.17929 of 2015

VD(CO)
CA(21/08/2015)

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