

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.932 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri E.Madan Mohan Rao, learned counsel for the appellant, and Sri B.Narayana Reddy, learned Assistant Solicitor General and, with their consent, the writ appeal is disposed of at the stage of admission.

The appellant is the petitioner in the writ petition wherein he sought a writ of certiorari to quash the proceedings issued by the Assistant Commandant, Regulating Officer dated 11.01.2017, and the consequential order dated 17.01.2017 issued by the Commandant, Deputy Officer-in-charge, dismissing him from Coast Guard Service and relieving him from duty, as illegal and arbitrary.

In the order under appeal, the Learned Single Judge observed that the appellant-writ petitioner was working as a Navik (General Duty); he was governed by the provisions of the Navy Act, 1957; service matters of all employees, who are governed by the Navy Act, 1957, are now vested in the Armed Forces Tribunal established under the Armed Forces Tribunals Act, 2007; the Tribunal is the Court of first instance to deal with service disputes of employees governed by the Navy Act, 1957; and, since the appellant-writ petitioner has an efficacious alternative remedy to approach the Armed Forces Tribunal, the writ petition was liable to be dismissed.

Sri E.Madan Mohan Rao, learned counsel for the appellant-writ petitioner, would draw our attention to the specific averment in the writ affidavit that a charge sheet was issued to the appellant under Sections 46 and 44 of Coast Guard Act, 1978 for 'abetment of offences that have been committed' and 'act prejudicial to good order and Coast Guard Discipline' respectively; the appellant-writ petitioner is an employee of the Coast Guard, and is governed by the provisions of the Coast Guard

Act, 1978; and the Learned Single Judge has erred in holding that the appellant-writ petitioner is governed by the provisions of the Navy Act, 1957, or that the appellant is required to approach the Armed Forces Tribunal.

Section 2(1) of the Armed Forces Tribunal Act, 2007 makes the provisions of the said Act applicable to all persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950. It is only a person governed by the provisions of any of these three enactments, who is entitled to invoke the jurisdiction of the Armed Forces Tribunal. The appellant-writ petitioner is governed by the provisions of the Coast Guard Act, 1978, and not the Navy Act, 1957. Employees of the Coast Guard are not governed by the provisions of the Navy Act, 1957 and, consequently, they do not have the remedy of invoking the jurisdiction of the Armed Forces Tribunal. As the appellant-writ petitioner does not appear to have any other efficacious alternative remedy, he is entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

The order under appeal is set aside and W.P.No.15211 of 2017 is restored to file. It is open to the appellant-writ petitioner to request the Learned Single Judge to take up the writ petition for admission.

The Writ Appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

13th July, 2017
JSU

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Date: 13.07.2017

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