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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 456/2017

HAV MITHILESH KUMAR

..... Petitioner

Through Mr.H.S.Tiwari, Advocate
versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Mr.Pranav Aggarwal
and Mr. Prateek Dhanda, Advocates

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **24.01.2017**

In this writ petition, the petitioner has challenged an order dated 25.6.2005 imposing on the petitioner the punishment of severe reprimand, as also an order dated 30.9.2016 rejecting the statutory complaint of the respondent.

A preliminary objection has been taken by the respondents to the maintainability of the writ petition in this Court.

Section 14 (1) (2) & (3) of the Armed Forces Tribunal Act, 2007 provide as follows:-

“14. Jurisdiction, powers and authority in service matters- (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts (except the Supreme Court or a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution) in relation to all service matters.

(2) Subject to the other provisions of this Act, a person aggrieved by order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.

(3) On receipt of an application relating to service matters, the Tribunal shall, if satisfied after due inquiry, as it may deem necessary, that it is fit for adjudication by it, admit such application; but where the Tribunal is not so satisfied, it may dismiss the application after recording its reasons in writing.”

Service matter has been defined in Section 3(O). In view of Section 3(O) (iii) read with Section 3(O) (iv) and 3 (O) (ii) an order of severe reprimand, is in our view, a service matter, as also the rejection of the statutory complaint of the petitioner in respect of the order of severe reprimand.

The petitioner has an alternative remedy under the Armed Forces Tribunal Act, 2007. The writ petition is, therefore, not entertained.

It is made clear that we have not adjudicated on the merits of the contentions of the respective parties in the writ petition. It will be open to the petitioner to approach the Armed Forces Tribunal.

The writ petition is dismissed.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

JANUARY 24, 2017/mw