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

+ W.P.(C) 3338/2017 & CM No. 14565/2017 (stay)

SGT M S AKHTAR Petitioner
Through Mr.Mohd. Azam, Adv.

versus

UNION OF INDIA & ORS Respondents
Through Mr. Jasmeet Singh, CGSC and
Mr. Srivats Kaushal, Adv with Wg.
Cdr. A.K. Chauhan

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **19.04.2017**

The petitioner had earlier filed WP(C) no. 3119 of 2017 titled Sgt. M.S. Akhtar vs. Union of India & Ors., which was disposed of vide order dated 12.4.2017, which reads as under:

“1. The petitioner before us has made a prayer seeking extension of service for three years after completing his engagement of 20 years as an Airman with the Indian Air Force. It is complained that his application dated 16th February, 2015 for this purpose has not been decided.

2. Mr. Jasmeet Singh, CGSC has drawn our attention to the provisions of Section 3(o) of the Armed Forces Tribunal Act, 2007 wherein “service matters” of a person subjected to the Air Force Act, 1950 are defined and include the matters relating to tenure of service.

3. A reading of Section 14 of the Armed Forces Tribunal Act stipulates that the Armed Forces Tribunal

would have jurisdiction over the matters detailed in Section 3(o) of the statute.

4. We are further informed that qua certain other issues, the petitioner has himself filed O.A.No.1529/2015 before the Armed Forces Tribunal at Chandigarh.

5. Mr. Azam Ansari, Id. counsel for the petitioner submits that he is precluded from approaching the Armed Forces Tribunal because of the fact that the regional Bench of the Tribunal at Chandigarh under which the jurisdiction admittedly lies, is not assembling for the past few months due to lack of forum/non availability of judicial members and that this issue is subjudice before the Supreme Court of India in W.P.(C)No.857/2016.

In our view, even this fact would not vest jurisdiction in this court and that the petitioner has to avail appropriate remedy over a court of competent jurisdiction or forum in Chandigarh.

In view of the above, the present writ petition and application are dismissed for want of territorial jurisdiction.”

Aforesaid order refers to Section 3(o) of the Armed Forces Tribunal Act, 2007 wherein, service matters of person(s) subject to the Air Force Act, 1950 are defined and include the matters relating to tenure of service.

The petitioner is seeking three years extension of service for which, the application was filed on 16.2.2015. In case, the said application is accepted, the petitioner would retire on 31.8.2020. In case however, the request is declined, he would retire on 31.8.2017. Order dated 12.4.2017 was passed referring to Section 3 (o), in view of the fact that the dispute raised by the petitioner relates to ‘tenure’ of service.

Learned counsel for the petitioner submits that the respondents have not passed any order on the application dated 16.2.2015. Learned counsel for the respondents on his part submits that though

the subject issue relates to the tenure of service to be decided by the Tribunal, without prejudice to the rights and contentions of the respondents, he has already called upon the Authorities to pass an order on the petitioner's application dated 16.2.2015.

In view of the aforesaid observations, the writ petition is not entertained giving liberty to the petitioner to approach the Tribunal in accordance with the rules.

Dasti.

SANJIV KHANNA, J

ANIL KUMAR CHAWLA, J

APRIL 19, 2017/rc