

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2981 OF 2018

Captain Amarendra Kumar : Petitioner.
Versus
Union of India (Through Secretary)
Ministry of Defence and ors. : Respondents.

Mr. Angsuman N Chandra Ojha for the Petitioner.
Mr. Ashutosh R Gole a/w Mrs. Anjali Helekar for the Respondent Nos.1 to 3.

**CORAM : R. M. SAVANT &
K. K. SONAWANE, JJ.**
DATE : 07th SEPTEMBER 2018

P.C.

1 The above Writ Petition as originally filed was challenging the transfer of the Petitioner vide impugned orders, however, the Petitioner has joined at his new place of posting, and therefore, the learned counsel for the Petitioner Shri Angsuman Ojha states that the said challenge has turned infructuous.

2 The grievance that remains of the Petitioner is non-consideration of the Petitioner's representations which have been made to the Respondent No.1 in the Ministry of Defence.

3 There is some dispute as to whether the representations of the Petitioner have to be dealt with by the Ministry of Defence or the Commander

In-charge, Western Naval Command. The contentions in support and against were made by the learned counsel appearing for the parties.

4 It seems that the Administrative Head of the Petitioner is the Western Naval Command. In the instant case, the Petitioner has a grievance against his Administrative Head i.e. the Respondent No.3. Hence directing the Administrative Head to decide the representations of the Petitioner would be a negation of the principles of natural justice. It would therefore be appropriate if the Respondent No.1 through the Ministry of Defence decides the representations of the Petitioner. Some of the representations have been annexed to the above Writ Petition i.e. the representation dated 30/11/2017, the representation dated 27/01/2018 and the representation dated 09/02/2018. In fact in the representation dated 27/01/2018 which refers to the representation dated 30/11/2017 the Petitioner has requested that his grievance be forwarded to the next superior authority i.e. Government of India in accordance with paragraph 5(c) of CNO 07/1986. We accordingly direct the concerned authority in the Ministry of Defence in the Central Government to decide the Petitioner's representations. Same to be done within six weeks from date i.e. on or before 19/10/2018. By issuing the aforesaid directions we dispose of the above Writ Petition.

5 The instant order to be communicated to the concerned

department/authority of the Central Government as well as the concerned department/authority in the Western Naval Command by the learned counsel for the Respondent Nos.1 to 3 forthwith.

6 All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

[K. K. SONAWANE, J]

[R.M.SAVANT, J]

Laxmikant
Gopal
Chandan

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by Laxmikant
Gopal Chandan

Date:
2018.09.07
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