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

+ W.P.(C) 5954/2018

NK/CHEF VIJAY KUMAR Petitioner
Through: Mr.Satya Saharawat, Advocate

versus

UNION OF INDIA AND ORS Respondents
Through: Mr.Amit Mahajan, Advocate with
Maj.Charul Bhatt

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.05.2018

1. This petition has been listed by the Registry with an objection with regard to its maintainability in the High Court.
2. Learned counsel for the petitioner refers to Section 3 (o) of the Armed Forces Tribunal Act, 2007 to state that the present petition is maintainable before this court.
3. Mr.Amit Mahajan, learned Central Government Standing Counsel, who appears on advance notice for the respondents states that without prejudice to the objection with regard to the maintainability of the present petition in the High Court, in view of the stand taken by the petitioner that he had submitted a statutory complaint under Section 26 of the Army Act against the punishment of severe reprimand awarded to him under Sections 41 and 63 of the Army Act, 1950, the respondents are willing to examine the same.

4. Though the petitioner states that he had despatched the statutory complaint to the respondents through speed post on 23.10.2017 and the respondents have failed to decide the same, learned counsel for the respondents states on instructions that no such statutory complaint was received at the Army headquarters. In any case, a copy of the said complaint is enclosed with the present petition and marked as Annexure A-6.

5. Accordingly, without prejudice to the rights and contentions of the parties and while refraining from making any observations on the issue of maintainability of the present petition in the High Court or touching upon the merits of the case, directions are issued to the respondents to decide the statutory complaint under Section 26 of the Army Act, 1950, submitted by the petitioner and filed as Annexure A-6 with the petition, in accordance with law and pass a speaking order, under written intimation to him, within six weeks from today. If the grievance of the petitioner survives thereafter, he shall be entitled to seek legal recourse, as may be advised.

6. The petition is disposed of.

HIMA KOHLI, J.

PRATIBHA RANI, J.

MAY 29, 2018
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