

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6087 of 2020

Date of Decision:04.03.2020

Colonel Surender Chauhan

.....Petitioner

Versus

Union of India and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.R.S.Panghal, Advocate
for the petitioner.

LISA GILL, J(Oral).

Prayer in this writ petition is for issuance of direction to the respondents to conduct an enquiry in accordance with rule 177 of Army Rules, 1954 and to ensure fair investigation and further process the petitioner's complaint dated 23.08.2019 (Annexure P-1), in accordance with law.

Various allegations have been raised in the complaint (Annexure P-1), which are not required to be delineated, at this stage.

At the very outset, it is pertinent to refer to Section 3 (o) of the Armed Forces, Tribunal Act, 2007 (for short 'Act'), which deals with service matters. Section 3(o) of the Rules, reads as under:-

“(o) service matters, in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include —

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

- (iii) summary disposal and trials where the punishment of dismissal is awarded;
- (iv) any other matter, whatsoever, but shall not include matters relating to —
- (i) orders issued under section 18 of the Army Act, 1950 (46 of 1950), sub-section (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950 (45 of 1950); and
- (ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950).
- (iii) leave of any kind;
- (iv) Summary Court Martial except where the punishment is of dismissal or imprisonment for more than three months;
- (p) summary disposals and trials means summary disposals and trials held under the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);
- (q) “Tribunal” means the Armed Forces Tribunal established under section 4.”

A perusal of the said provision reveals that the present writ petition is clearly not maintainable. The petitioner's remedy lies elsewhere.

In this view of the matter, this writ petition is dismissed as not maintainable. Needless to say, the petitioner is at liberty to avail the remedy/remedies as may be available to him.

04.03.2020

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.