

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

124

**CWP-6716-2021
Decided on : 23.03.2021**

K.Thilagar

... Petitioner

Versus

Union of India & another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Gaurav Mohunta, Advocate, for the petitioner.

Mr.Anil Chawla, Advocate, for the respondents.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India is to the order dated 20.01.2021 (Annexure P-1) whereby discharge of the petitioner from service on compassionate ground has been rejected. Challenge has been raised on account of the fact that Air Force Order dated 19.09.2008 (Annexure P-2) provides the grounds whereby the Airman could be permitted to seek the said discharge.

It is the case of counsel for the petitioner that it would fall within Clauses 2(b) & 2(e) since the brother of the petitioner had been murdered and therefore, he wants to be with his family members and also to pursue the criminal litigation. It is contention of the counsel for the petitioner that the rejection of petitioner's case along with 2 others by respondent No.2, is without any reason.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

124

CWP-6716-2021

-2-

Mr.Chawla has put in appearance on account of advance copy being supplied and has pointed out that Section 2 provides the applicability of the Armed Forces Tribunal Act, 2007 to the Air Force personnel in so far as it relates to the service matters. Reliance is placed upon Section 3(o) wherein the definition is wide in as much as Sub-clause (ii) provides the conditions of service including the tenure whereas Sub-clause (iv) provides any other matters whatsoever. The exclusion clause has also been provided, which counsel for the petitioner could not convince this Court that the matter falls within the exclusion clause.

In such circumstances, once there is an alternative and efficacious remedy available before the Armed Forces Tribunal, this Court is of the opinion that it would not be appropriate for this Court to entertain the present writ petition. Reliance can be placed upon the judgment rendered by the Apex Court in **United Bank of India Vs. Satyawati Tondon & others 2010 (8) SCC 110** to this effect.

Accordingly, the present writ petition is disposed of, with liberty to the petitioner to approach the Armed Forces Tribunal, for the relief claimed.

MARCH 23, 2021
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No