

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2051 of 2022**

=====

Rama Kant Thakur, Army No. 14908107 W Ex- Sep, Son of Late Jalim Thakur, Resident of Village and P.O.- Mani Bhakurahar, P.S. Sarai, District- Vaishali, Pin Code- 844125.

... .. Petitioner/s

Versus

1. The Union of India through Secretary Ministry of Defense, Govt. of India.
2. The Commandant, 19 Mechanised Infantry (RECCE AND SP) (TR) C/o 56-APO, Pin Code-911719. P.S. Bikaner District- Sri Ganga Nagar, State- Rajasthan.
3. Record Commanding Officer Mechanised Infantry Regiment Abhilekh Office, Ahmednagar- 414110 (Maharasta)

... .. Respondent/s

=====

**Appearance :**

For the Petitioner : Mr. Ramesh Kumar Choudhary, Advocate  
For the Respondent (Army) : Mr. Anshay Bahadur Mathur, C.G.C.

=====

**CORAM: HONOURABLE MR. JUSTICE NANI TAGIA**  
**ORAL JUDGMENT**

**Date : 05-04-2024**

The petitioner, who joined as Sepay on 10.02.1983 in Mechanised Infantry Regiment being Army No. 14908107W and left the job on 13.02.1995, has approached this Court by filing this writ petition under Article 226 of the Constitution of India seeking a direction to the Respondents for payment of pension.

2. The case is listed under the heading “For Orders (On Office Notes)”, whereby the Registry vide Serial No.32 has pointed out that the writ petition is defective as the same is not maintainable and the petitioner has an alternative remedy before the Armed Forces Tribunal.



3. Learned counsel for the State also by referring to Sections 14(2) and 3(o) of the Armed Forces Tribunal Act, 2007, has submitted that the petitioner has an alternative remedy to approach the Armed Forces Tribunal and thus the instant writ petition is not maintainable.

4. Sections 14(2) and 3(o) of the Armed Forces Tribunal Act, 2007 reads as under :

“14(2). Subject to the other provisions of this Act, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.

3(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) order 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.”

5. From reading of the provisions of Sections 14(2) and 3(o) of the Armed Forces Tribunal Act, 2007, it appears that the pension related matter has been defined under Section 3(o) of the Armed Forces Tribunal Act, 2007 as a matter pertaining to the service matter for which, the petitioner can make an application before the Armed Forces Tribunal under Section 14(2) of the Armed Forces Tribunal Act, 2007.

6. In that view of the matter, since the petitioner has an alternative remedy to approach the Armed Forces Tribunal, this



writ petition is hereby disposed of with a liberty granted to the petitioner to approach the Armed Forces Tribunal having the jurisdiction in the matter.

**(Nani Tagia, J)**

Narendra/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | N.A.F.R.   |
| CAV DATE          | N.A.       |
| Uploading Date    | 05.04.2024 |
| Transmission Date | N.A.       |

