

2024.PHHC.103056-DB



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

CWP-2109-2024 (O&M)

Date of Decision: 06.08.2024

MAJOR DEEPAK PUNIA

...Petitioner

Versus

UNION OF INDIA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Rajesh Sehgal, Advocate for the petitioner.

Mr. Rohit Verma, Sr. Panel Counsel
for the respondents-UOI.

SUDHIR SINGH, J.

The present petition has been filed against the order dated 24.11.2023, passed by the Armed Forces Tribunal (For short 'the AFT'), whereby the Original Application filed by the petitioner was dismissed on the ground of limitation as well as maintainability.

2. The petitioner is a Commissioned Officer and he got married to Ms. Ankita on 19.04.2019. The said marriage did not last for very long. The differences between the parties led to inter-se litigation between them. A show cause notice dated 11.01.2021 was issued to the petitioner contemplating an administrative action against him for his misdemeanours. He submitted a reply dated 17.02.2021, but it was not found unsatisfactory and consequentially vide order dated 16.03.2021, the petitioner was awarded a "Displeasure". It is

the case of the petitioner that the aforesaid administrative action has the operational effect for 10 years and it will hamper his carrier as the said “Displeasure” would seriously affect the chances of his promotion.

3. The Original Application filed by the petitioner before the AFT was dismissed, firstly on the ground of delay. It was found by the learned AFT that the petitioner had failed to show any sufficient cause so as to warrant condonation of delay and that a litigant cannot be permitted to challenge an order whenever he deems fit convenient to do so.

4. While referring to Section 3(o) of the Armed Forces Tribunal Act 2007 (for short ‘the Act’), it was found that the issue raised by the petitioner did not fall within the definition of service matters and, therefore, the Original Application was held to be not maintainable.

5. At the very outset, learned counsel appearing for the petitioner has submitted that the impugned action of the authorities awarding “Displeasure” to the petitioner is an administrative order. It is further submitted that such administrative order, having operational force for 10 years, is seriously affecting the carrier of the petitioner and, therefore, the AFT has a jurisdiction to examine the legality of the impugned action. But the learned AFT did not take into consideration the said aspect the matter and proceeded on to hold that the Original Application filed by the petitioner was barred by limitation.

6. As regards maintainability, it is argued by the learned counsel for the petitioner that the “Displeasure” being censure in nature, is an administrative order and thus, the same is amenable to the jurisdiction of the AFT. He relies upon the judgment of the Armed Forces Tribunal, Principal Bench, New Delhi in **Col S.K. Singh Vs. Union of India and Ors.** OA-1725/2021 decided on 07.11.2023, wherein an order awarding censure against the applicant therein (an Army Officer), was adjudicated upon. Reliance is also placed upon the judgment of the Delhi High Court in **Col. Sandeep Sharma Vs. Union of India and Ors.** in W.P.(C) 7541/2023 & CM APPL/29232/2023 decided on 28.05.2024. It is, thus, submitted that once the controversy involving the similar issue has been adjudicated upon by the Principal Bench of the AFT, the dismissal of the Original Application filed by the petitioner by learned AFT, is legally not sustainable.

7. On the other hand learned counsel appearing for the respondent-Union of India, though defends the impugned order passed by the AFT, yet he does not controvert the factum of the aforesaid order passed by the Principal Bench of the learned AFT.

8. After hearing the learned counsel for the parties, the short question that arises for consideration before this Court is whether the impugned order passed by the Army Authorities awarding “Displeasure” to the petitioner, falls within the jurisdiction of the AFT.

9. It is not disputed that the action of the Army Authorities in awarding censure to the petitioner is an administrative decision. It

is also not disputed that the said order has the operational force for 10 years, affecting the promotional avenues of the petitioner. Thus, against such administrative action, in our opinion, the learned AFT, has got the jurisdiction to examine its legality.

10. Moreso the controversy involved in the present petition, is covered by the decision of the Principal Bench of the learned AFT in Col S.K. Singh (supra).

11. As before the learned AFT, the petitioner had taken grounds for approaching the Tribunal belatedly, but in our opinion the period of 06 months, particularly when it is stand of the petitioner that the severity of the order of “Displeasure” came to his knowledge, during the matrimonial proceedings, when such order was produced by his wife, it cannot be said that the present one is a case where there is a deliberate or willful delay on the part of the petitioner.

13. In view of the above, we allow the present petition and set aside the order dated 24.11.2023, passed by the learned AFT. Accordingly the matter is remitted to the learned AFT to decide the same on merits. As there appears to be no deliberate or willful delay on the part of the petitioner, we hope that the learned AFT will decide the matter on merits, uninfluenced by the delay part, if any.

[SUDHIR SINGH]
JUDGE

[KARAMJIT SINGH]
JUDGE

06.08.2024
Himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No