



2024:DHC:7141



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

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Reserved on: 09.09.2024***Pronounced on: 18.09.2024***+ **W.P.(C) 11488/2024 & CM APPL. 47692/2024****LT COL RAMANDEEP SINGH****.....Petitioner****Through: Mr. Krishan Kumar and Mr.
Shivam Bedi, Advs.****versus****UNION OF INDIA & ORS.****.....Respondents****Through: Mr. Harish Vaidyanathan
Shankar, CGSC, with Mr.
Srish Kumar Mishra, Mr.
Alexander Mathai Paikaday
and Sagar Mehlawat, Advs for
R-1 & R-2.
Ms. Shobhana Takiar, Adv. for
R-3.****CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present petition under Article 226 of the Constitution of India has been filed by the petitioner, seeking to quash and set aside the impugned fee concession received *via* an email dated 15.07.2024 from respondent no. 3, Flame University. The petitioner also challenges the action of respondent no. 2, The Ceremonial & Welfare



Directorate, in approving a 75% fee concession for his daughter without his consent.

2. **The case set out by the petitioner**, a Lieutenant Colonel in the Indian Army, is that exorbitant expenses are being imposed on him by respondent no. 3, despite his lack of consent. It is stated that a Memorandum of Understanding ('MoU') between respondents no. 2 and respondent no. 3 is a welfare measure that cannot be legally enforced without the petitioner's free consent, particularly given his official position in the Indian Army. It is stated that after the 75% fee concession, the non-professional graduation course and lodging expenses amount to approximately Rs. 5 lakhs per year, excluding food, travel, and books, bringing the total expenditure to around Rs. 7 lakhs per year. Furthermore, respondent no. 3 offers four-year non-professional degree courses (BA, B.Com, B.Sc., BBA), which are typically completed in three years in other institutions across India. Consequently, the petitioner would be paying Rs. 28 lakhs for a non-professional course, after which his daughter would still struggle to secure decent employment. The petitioner also highlights his personal circumstances, including marital discord since February 2021, serious illnesses affecting his parents, and multiple cases filed against him by his estranged wife in various locations. He states that despite paying maintenance, the petitioner has not been granted visitation rights to his daughters, who were studying at Loreto Convent School in Delhi before being moved to a private school and hostel in Pathankot. It is submitted that on 15.07.2024, the respondent no. 3 had confirmed *via* email that the petitioner's elder daughter, who had scored 70% in



Class XII CBSE, was granted provisional admission with a 75% fee concession approved by Army Authorities. The petitioner contends that this institution is not suitable for his daughter and that the concession is only valid for serving Army personnel, not retired ones. The petitioner, having sought pre-mature retirement, which was approved on 12.07.2024, had informed respondent no. 3 and requested cancellation of the concession. He alleges that his estranged wife managed the concession through relatives, which has led to the filing of this petition for challenging the imposition of financial liability without his consent.

3. **Learned counsel for the petitioner** argues that there was no free consent from the petitioner regarding the fee concession, yet he is being forced to bear financial burdens related to his family, particularly his minor children. It is contended that since the petitioner's pre-mature retirement has been approved, he is now eligible for only a 50% fee concession as per the MoU, which further increases the cost of the non-professional graduation course. Given his financial constraints, it is argued that the petitioner cannot afford the exorbitant fees for such a degree, particularly when his daughter could instead pursue a professional course at a reputable institution. The petitioner seeks the cancellation of the fee concession, arguing that the course at Flame University, lasting four years compared to the usual three, will not adequately qualify his daughter for future employment. While highlighting the financial obligations of the petitioner, including those towards his younger daughter and family,



it is asserted that respondents have failed to address his concerns, despite written representations dated 06.08.2024 and 08.08.2024.

4. On the issue of maintainability of this petition, it is contended that the jurisdiction of the Family Court, as delineated under the Family Courts Act, 1984, particularly sub-para '1(d)' of Explanation to Paragraph 7, Chapter 3 of the Act, refers to “a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship”. However, the instant petition stems from grievances related to the actions of respondents, which have affected the petitioner due to his status as a serving Army Officer, rather than from any marital relationship. It is stated that the issue primarily involves the wrongful imposition of excessive financial liability by respondents without the petitioner's consent, a matter clearly outside the Family Court's jurisdiction. It is also argued that the Petitioner is not a signatory to the MoU between respondent no. 2 and 3, and thus, the Family Court cannot adjudicate on the financial implications of respondents' decisions upon the petitioner. It is also argued that the preliminary contention of learned counsel for respondent no. 2, that the writ petition arises solely from marital discord, is a legal maneuver designed to obscure the real issue: the wrongful and exorbitant financial burden imposed on the Petitioner. Therefore, it is prayed that the present petition be allowed.

5. **Learned counsel for the respondent no. 1 and 2**, on the other hand, questions the maintainability of the present petition and argues that it relates to the marital discord between the petitioner and his wife. It is stated that the petition has been filed to settle personal



scores against his wife and daughter. Learned counsel further argues that the petitioner has mischievously not made his wife and daughter parties to the petition and has only arrayed the respondents herein. However, it is evident that any order in the present petition would prejudice only the wife and the daughter.

6. It is further argued that for matrimonial disputes, the appropriate forum is the Family Courts, not under Article 226 of the Constitution of India. It is contended that under the guise of the present petition, the petitioner seeks to revoke the fee concession granted to his daughter by respondent no. 3. If the granted concession is withdrawn, either the daughter's admission will be canceled or her entire fee will have to be borne by the petitioner's wife. It is argued that it is peculiar for a father to file such a petition, effectively pleading that his daughter should be deprived of the privilege of studying in a course where a 75% concession has been granted. Furthermore, it is argued that if the petitioner has any grievances against respondent no. 1 and 2, the appropriate forum is the Armed Forces Tribunal under the Armed Forces Tribunal Act, 2007.

7. It is stated that Section 3(o) of the Armed Forces Tribunal Act, 2007 provides that any issue pertaining to the pay, salary, including remuneration, pension, and other retirement benefits, falls within the scope of 'service matters' and can only be adjudicated by the Armed Forces Tribunal. Additionally, in the case of *L. Chandra Kumar*, the Hon'ble Supreme Court has held that where a statute provides for an express remedy, the statutory tribunal will be the forum of first instance. Therefore, it is prayed that the present petition be dismissed.



8. This Court has **heard** arguments advanced on behalf of both the parties and has perused the material available on record.

9. At the outset, this Court deems it apposite to set out Section 3(o) of the Armed Forces Tribunal Act, 2007 hereunder:

“...(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; (i) order issued under section 18 of the Army Act, 1950 (46 of 1950), sub--section

(i) 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 and the Air Force Act, 1950;

(iii) leave of any kind;

(iv) summary Court-Martial except where the punishment is of dismissal or imprisonment for more than three months;

(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...”

10. Further, Section 7 (d) of Armed Forces Tribunal Act, 2007 reads as under:

“...(d) a suit or proceeding for an order or injunction in circumstance arising out of a marital relationship...”



11. After hearing the arguments and perusing the case file, this Court is of the opinion that the genesis of the present petition, as admitted by the petitioner himself, stems from the marital discord between him and his wife. The petitioner concedes in his petition that, following the discord, he has faced 12 cases, and that his estranged wife, in collusion with some family members, managed to secure a 75% fee concession for their elder daughter, which he claims she was otherwise not entitled to. The petitioner also asserts that after their marital discord, his wife relocated with their daughters to Pathankot. He further submits that the matter of the custody of their minor daughters is still *sub judice* before the learned Family Court, thereby admitting that custody has not been granted to him.

12. This Court finds merit in the contention of the learned counsel for the respondent that the primary parties affected by any order passed in this case are, in fact, the petitioner's wife and daughter. The matter is not as straightforward as the petitioner presents it, that his daughter was wrongfully granted a 75% fee concession. His further contention that he would be compelled to bear his daughter's college fees due to the actions of the respondent is misplaced. The responsibility for this situation lies not with the respondent but with his wife, who enrolled their daughter in a college of her choice, as the daughter is in her custody. The college choice was not made by the respondent, but by the petitioner's wife, which makes this essentially a dispute between the petitioner and his wife, to be addressed by the learned Family Court, where matters of custody and maintenance are already pending.



13. Further, the petitioner's claim that his monthly income does not allow him to pay for his daughter's college fees is also a matter for the Family Court to decide, which will determine the quantum of maintenance he is liable to pay, including any college fees. The petitioner has approached this Court under the pretext of an alleged illegal action by the respondent in granting his daughter a fee concession. However, it is clear that he had sought and was granted voluntary retirement on 12.07.2024, and the pleadings do not clarify whether his wife applied for this concession in accordance with the rules before his retirement was accepted.

14. Even if the petitioner is aggrieved by the actions of the Army authorities, he must approach the Armed Forces Tribunal for any legal remedy concerning alleged violations of rules or laws. The petitioner may pursue alternative remedies if he believes his wife or her relatives misled the Army authorities or admitted their daughter to the university without his consent, or if he is unable to pay the fees. The respondents, including the University, are not involved in the personal dispute between the petitioner and his wife. The University has granted admission and the concession based on the letter received by them, as they were obligated to do.

15. Therefore, in light of the above discussion and Section 7(d) of the Armed Forces Tribunal Act, 2007, this Court is of the opinion that the appropriate forum for the petitioner's grievances is either the Family Court, or the Armed Forces Tribunal, depending upon the relief claimed by him, not the writ jurisdiction of this Court.



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16. In view of the foregoing discussion, this Court finds that the petition is devoid of merit and is, therefore, dismissed, alongwith any pending applications.

17. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 18, 2024/zp