

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. No. 62/332/2020

This the 22nd day of April, 2021

**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. DINESH SHARMA, MEMBER (A)**

1. Ifetkhar Ahmed Age 33 years, S/o Abdul Rashid, R/o Dodasan Bala, Tehsil Thannamandi, District Rajouri.Applicants

(Advocate:-Mr. Ajaz Choudhary-**Not Present**)

Versus

1. Naseem Akhter, W/o Ifthekar Ahmed, R/o Dodasan Bala, Tehsil Thannamandi District Rajouri.
2. Commandant 17th JAKLI, C/o 56 APO.
3. CRO JAKLI Regiment, Centre Srinagar Rangrate. C/o 56 APO.Respondents

(Advocate: Mr. Raghu Mehta, Sr. C.G.S.C. for Respondent No. 2 and 3)

**O R D E R
[O R A L]**

(Delivered by Hon'ble Mr. Dinesh Sharma, Member-A)

The present T.A. has been received by way of transfer from Hon'ble High Court of J&K at Srinagar. Learned Sr. C.G.S.C. for the respondents submits that the applicant is serving in the Army and is presently posted in 17th JAKLI C/o 56 APO and since, the applicant is member of Armed Forces, this Tribunal has no jurisdiction to hear the case. Learned Sr. C.G.S.C. further submits that, if the applicant has any grievance, they have to approach the Armed Forces Tribunal.

2. The law on this point is no longer res integra and is fully covered by the ratio as laid down by the judgment of Full Bench (Central Administrative Tribunal) in Satendra Narain Pandey Vs. Union of India and others OA-2478/91 decided on 5.2.1993 (CAT (F.B.) Vol. III page 183). The Full Bench after considering the provision of Section 2 (a),



Section 14, 28 of the Administrative Tribunals Act, 1985 and Article 323-A of the Constitution in para 7 has inter alia held that:



“7. The Tribunal has not been conferred jurisdiction to adjudicate all types of disputes of the specified personnel. Jurisdiction is conferred only in relation to their recruitment and service matters. Other types of disputes of these personnel are outside the jurisdiction of the Tribunal. Section 2(a) is an exception to Section 14. Therefore, when Section 2 (a) says that the provisions of the Act shall not apply to a member of the armed forces of the Union, it means that provisions of the Act shall not apply to adjudication of disputes relating to recruitment and service matters. In other words, the disputes in regard to recruitment and conditions of service of members of the armed forces of the Union are outside the purview of the Act. Mere membership of the armed forces of the Union is not enough to oust the jurisdiction of the Tribunal. The jurisdiction of the Tribunal would be ousted only if the dispute relates to recruitment to the armed forces. We may illustrate the meaning with examples. Let us take the case of a person who had held a civil post under the Union of India, resigned from the said post and became a member of the armed forces of the Union. If after his becoming a member of the armed force of the Union, he applies to the Tribunal to recover arrears of pay in regard to the civil post held by him, can his application to the Tribunal be rejected on the ground that he was a member of the armed force of the Union on the date of the application? The answer can only be No. The reason is that the dispute which he has raised has nothing to do with his membership of the armed forces of the Union. Suppose, a member of the armed force of the Union after his retirement from the armed force is appointed to a civil post under the Union. If he has any dispute regarding his conditions of service as an erstwhile member of the armed force of the Union, he would not be entitled to invoke the jurisdiction of the Tribunal as the dispute relates to his conditions of service as the member of the armed forces of the Union even though on the date he invokes the jurisdiction of the Tribunal, he was not a member of the armed forces of the Union. Hence, on a true interpretation of Section 2 (a) of the Act, we hold that the Act does not apply to matters relating to recruitment to armed force of the Union and to service matters of members of the armed force of the Union.”

3. Thus, as per the settled law, it is clear that mere membership of the Armed Forces of the Union is not enough to oust the jurisdiction of the Tribunal under Section 2 (a) of the Act and what is necessary to oust the jurisdiction is whether the dispute relates to service of the Armed Forces of the Union. As already stated above, the grievance highlighted by the applicants in this TA is regarding release of allowances along with gratuity and other dues, which is a service matter, as such, we are of the view that the

provisions of Section 2 (a) of the Act is clearly attracted and the jurisdiction of this Tribunal is ousted to decide the matter relating to the transfer of the applicants.



4. Taking the aforesaid facts and circumstances of the case into consideration , we have no hesitation in arriving at the conclusion that this Tribunal does not have jurisdiction to entertain this T.A. as the applicant is a Member of the Armed Force of the Union.

5. Since this Tribunal has no jurisdiction to deal with the present case, this case be sent back to Registrar (Judicial), High Court of Jammu & Kashmir at Srinagar to be placed before the Hon'ble Bench for further orders. Both the parties are directed to appear before the Registrar (Judicial), High Court of Jammu & Kashmir at Srinagar on 14.05.2021.

(DINESH SHARMA)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)