

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 394 of 2005.

[Patna, this Friday, the 16th Day of December, 2005]

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

.....

Smt. Kaushaliya Devi

Vs.

Union of India & Ors.

Counsel for the applicant.:- Shri K.N.Diwakar.

Counsel for the respondents.:- Shri S.K.Tiwary, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:-The office had recorded objection that the application was not maintainable. This objection was because the applicant appeared to be a member of the Armed Forces.

2. To clarify this point, heard the learned counsel for the applicant and Shri S.K.Tiwary, learned Addl. Standing Counsel for the respondents. Learned counsel for the respondents pointed out Annexure-1 submitting that for the same relief this applicant had filed CWJC No. 5436 of 1987 which was disposed of by the Hon'ble High Court at Patna by order dated 21.05.1998 recording that it appeared that the respondents were outside the territorial jurisdiction of the High Court and, therefore, the writ petition could not be entertained by that Court. That writ petition, therefore, was dismissed.

3. From the record including annexures it appears that the husband of the applicant, Narain Kumar, was a deserter from Army w.e.f. 05.07.1985 [Annexure-5], whereafter a request letter by an officer in the rank




of Major of Indian Army dated 18.07.1985 was issued to the Supdt. Of Police, East Champaran, Bihar intimating him that No. 146-189 L/NK, Shri Narain Kumar of that Unit S[I] Fd Coy, was absent without leave, requesting the Police Officer to arrest the Lance Naik and to despatch him under Police custody to that Unit.

4. On being specifically asked the learned counsel for the applicant admitted that the husband of the applicant, Narain Kumar, was a member of Armed Forces and was not on the civilian side of the Army. This also has been claimed by the learned counsel for the respondents. This Tribunal has no jurisdiction over a member of the Armed Forces except with regard to a person holding a civil post connected with Defence or Defence Services [Section 14 of the A. T. Act].

5. Since it has been admitted by the learned counsel for the applicant and also has been asserted by the learned counsel for the respondents that the applicant was not holding a civil post under Armed Forces but was a member of Armed Forces, this Tribunal has no jurisdiction to hear a case concerning a member of the Armed Forces.

6. That being so, this application, being found not maintainable, is dismissed.



[P. K. Sinha]/VC

skj.