

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No – 3**M.A. No 628 of 2015****Wednesday, the 2nd September, 2015****“Hon’ble Mr. Justice D.P. Singh, Judicial Member
Hon’ble Air Marshal Anil Chopra, Administrative Member”**

No. 2794070L, Ex Nayak Mohammad Rafeeq Bayasab Rolli
 Son of Byasab Rolli,
 Resident of Vill: Ikkal, Tahsil – Hanagad, District : Bagalkot,
 in – 587125 (Karnataka).

.....Applicant

Ld. Counsel for the Applicant - **Shri Indra Prasad Yadav,
 Advocate**

Versus

1. Union of India, Ministry of Defence New Delhi through under Secretary through Secretary.
2. Chief of the Army Staff , Army Head Quarters, New Delhi.
3. Chief Record Officer,
Records, The Maratha Light Infantry Pin – 900499
4. Brigadier/Commander
31 Infantry Brigade, Head Quarter
Pin – 90802/ c/o 56 A.P.O
5. Commanding Officer,
22 Maratha Light Infantry
Pin – 911622 C/o 56 A.P.O.
6. Chief Controller of Accounts (Pension)
Allahabad (U.P.)

....Respondents

Ld. Counsel for the Respondents - **Shri D.S. Tiwari, Central Govt Counsel,
 Assisted by Lt Col Subodh Verma,
 Departmental Representative
 for the Respondents**

ORDER**(PASSED IN COURT)**

1. Applicant Mohd Rafeeq Bayasab Rolli, has preferred this Original application under Section 14 of AFT Act 2007 being aggrieved with the order of discharge dated 05.11.2009. Admittedly he belongs to state of Karnataka and the impugned order was passed at Belgaum by Commanding Officer, 22 Marathi Light Infantry.

2. Ld. Counsel for the Respondents has raised preliminary objection that this application is not maintainable at this Tribunal since it has no jurisdiction over the matter vide rule 6 of the Armed Forces Tribunal Rules, 2008 which is reproduced as under:-

“Place of filing Application:- (1) An application shall ordinarily be filed by the applicant with the Registrar of the Bench within whose jurisdiction- (i) the applicant is posted for the time being, or was last posted or attached, or (ii) where the cause of action wholly or in part, has arisen:

Provided that with the leave of the Chairperson the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 14 or section 15 of the Act, such application shall be heard and disposed of by the bench which has jurisdiction over the matter.”

Not with standing anything contained in sub rule 1 a person who has ceased to be in service by reason of his retirement, dismissal, discharge, cashiering, release, removal, resignation or termination of service may at his option, file an application with the Registrar of the

bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

3. Rule provides that the application may be filed within AFT under whose jurisdiction the person resides/ posted or attached or cause of action arises. In the present case, cause of action seems to be arose in the state of Karnataka where the applicant was residing and the impugned order was passed.

4. Application is not maintainable at AFT, Lucknow, only because the PCDA is situated at Allahabad. Statutory complaint has also been decided by the Senior Record Officer, Belgaum under delegated power of Chief of Army Staff. The applicant should file this application under statutory provisions before appropriate bench of AFT. In any case, this AFT, Lucknow has no jurisdiction to deal with this case.

5. Thus in the result, the Original Application is **dismissed** with liberty to file a fresh case, if he so desires before AFT having jurisdiction.

(Air Marshal Anil Chopra)
Member (A)

ukt/-

(Justice D.P Singh)
Member (J)