



2025:DHC:1794-DB



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 5765/2023

S RAJAGOPAL

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. Nikunj Arora, Mr. Arjun Panwar, Mr. Amrit Koul, Ms. Muskaan Dutta, Mr. Prahil Sharma and Mr. Aditya Chawla, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Aakanksha Kaul, Mr. Akash, Mr. Aman Sahani & Ms. Rhea Borkotoky, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**JUDGMENT (ORAL)**

**19.03.2025**

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**C. HARI SHANKAR, J.**

1. The petitioner was enrolled in the Indian Air Force<sup>1</sup> as an Airman on 16 July 1996. He was discharged from the service in the Air Force on 25 January 2007.

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<sup>1</sup> "the IAF", hereinafter



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2. While the petitioner was serving with the IAF, Bharat Heavy Electricals Limited<sup>2</sup> issued an advertisement inviting applications for the post of Supervisor Trainee in its organization. The petitioner applied, following a No Objection Certificate issued by the IAF on 25 May 2006 permitting the petitioner to appear in the interview.

3. On the petitioner succeeding in the selection process, the BHEL issued an Offer of Appointment to the petitioner on 18 December 2006.

4. Following this, on 18 January 2007, the IAF issued a discharge order, discharging the petitioner from its service with permission to join a civil post with the BHEL.

5. By then, the petitioner had completed ten years of service in the IAF. The petitioner joined the services of the BHEL on 4 May 2007 and is presently working with the BHEL, Tiruchirappalli, Tamil Nadu.

6. On 28 January 2022, the petitioner applied for being issue an Ex Service Man<sup>3</sup> Identity Card with the Zilla Sainik Board<sup>4</sup>, Namakkal, which is a subordinate office of the Kendriya Sainik Board<sup>5</sup>.

7. For this, he got himself registered at the ZSB, Tiruchirappalli. On 28 January 2022 itself the petitioner approached the ZSB for

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<sup>2</sup> "BHEL", hereinafter

<sup>3</sup> "ESM", hereinafter

<sup>4</sup> "ZSB", hereinafter

<sup>5</sup> "KSB", hereinafter



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getting himself registered as an ESM and for issuance of an ESM Identity Card.

**8.** In view of the aforesaid application, the Regional Sainik Board<sup>6</sup> Tamil Nadu wrote to the Secretary, KSB on 30 March 2022, seeking a clarification as to whether a person who was discharged from the service of the IAF on being selected to a civil post, and was sanctioned pro-rata pension, was entitled to be regarded an ESM.

**9.** We may note that the entitlement, or otherwise, of a person to be regarded as an ESM is governed by provisions of an Office Memorandum<sup>7</sup> dated 4 October 2012 issued by the Department of Personnel & Training<sup>8</sup>.

**10.** In view of the limited nature of the order we are passing today, we may eschew reference to any further factual details and may proceed directly to the following communication dated 11 April 2022, issued by the KSB, which forms the fulcrum of challenge in the present writ petition:

“Tele : 2618008 Fax 26192362

Kendriya Sainik Board

E-mail id –idpolicyksb@gmail.com

Ministry of Defence  
Government of India  
West Block-IV, Wing –VII  
R K Puram  
New Delhi – 110 068

No. 024/Policy/Tamil Nadu/Vol-1

11 April 22

<sup>6</sup> “RSB”, hereinafter

<sup>7</sup> “OM”, hereinafter

<sup>8</sup> “DOPT”, hereinafter



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Office of the Joint Director  
Dept. Of Sainik Welfare & Resettlement  
Bengaluru Urban, No.58, Cariappa Bhavan,  
Fd. Marshal Cariappa Road  
Bengaluru – 560 025

**EX-SERVICEMEN STATUS IN RESPECT OF EX. NO.741910-  
G EX CPL S RAJAGOPAL**

1. Refer to your letter No.SWR/BNG(U)/ESM/Status/2022 dated 05 Mar 2022.
2. Eligibility of Ex-serviceman status will be governed by DoPT Notification dated 04 Oct 2012, an Ex-serviceman means a person : -
  - (a) Who has served in any rank whether as a combatant or non combatant in the Regular Army, Navy and Air Force of the Indian Union, and
  - (b) Who either has been retired or relieved or discharged from such service whether at his own request or being relieved by the employer after earning his or her pension; or
  - (c) who has been relieved from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or
  - (d) who has been released from such service as a result of reduction of establishment; or
  - (e) Who has been released from such service after completing the specific period of engagement, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency and has been given a gratuity, or
  - (f) Gallantry award winners of the Armed Forces including persons of Territorial Army; or
  - (g) Ex-recruits boarded out or relieved on medical ground and granted medical disability pension.
3. There is no separate rule position / DoPT orders for issue of



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ESM identity card those are having pro rata pension holders.

4. ESM identity card only to be issued by RSB/ZSBs on production of PPO (not Pro Rata PPO) and those are having ESM status. Whereas ascertain from individual documents is having pro rata pension (without completion of full terms and conditions of tenure). Hence, he is not eligible for issue of ESM identity card.
5. Petitioner may be informed accordingly.

(Shikher Chandra)  
Capt. (IN)  
Director (Policy)”

**11.** Aggrieved by the aforesaid communication, the petitioner has approached this Court by means of the present writ petition, predicated on Article 226 of the Constitution of India. The prayer clause in this writ petition reads thus:

“In view of the facts and circumstances mentioned hereinabove, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- i. Issue Writ of Certiorari for quashing of letter dated 11.04.2022 whereby the Respondents rejected the request of the Petitioner for issuance of ex-serviceman identity card; and
- ii. Issue Writ of Mandamus to direct the Respondent to direct the Respondents to treat the Petitioner as an ex-serviceman in accordance to the circular dated 04.10.2012 published by the Ministry of Personnel, public grievances and pensions and to treat the pro rata pension payment order dated 21.10.2021 of the Petitioner as being eligible for issuance of ex-serviceman identity card; and
- iii. Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case.”



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**12.** The respondent, in its counter affidavit filed by way of response to the present writ petition, has advanced a preliminary objection that this writ petition would not lie before this Court and that the petitioner would appropriately have to approach the Armed Forces Tribunal<sup>9</sup>, in the matter.

**13.** The said objection was orally urged by Ms. Aakanksha Kaul, learned Counsel for the respondents, on 18 November 2024, when a Co-ordinate Bench of this Court passed the following order:

“1. The learned counsel for the respondents has raised a preliminary objection against the maintainability of the present petition contending that the remedy of the petitioner would be to approach the learned Armed Forces Tribunal. She contends that the petitioner is challenging the Order dated 11.04.2022 issued by the KSB, Ministry of Defence, by which it has been clarified that an ESM identity card can be issued by the Regional Sainik Board and Zonal Sainik Board only on the production of the Pension Payment Order and not for pro-rata PPO. The petitioner, who is also drawing pro-rata pension, is, therefore, not eligible for the ex-servicemen identity card. As the petitioner is challenging the order dated 11.04.2022, the dispute raised by the petitioner would be squarely covered by the definition of ‘service matters’ as defined in Section 3(o) of the Armed Forces Tribunal Act, 2007.

2. The learned counsel for the petitioner prays for time to make submission on this objection.

3. At request, re-list on 13<sup>th</sup> December, 2024.”

**14.** We have, therefore, heard Mr. Ankur Chhibber, learned Counsel for the petitioner, and Ms. Aakanksha Kaul, learned Counsel for the respondents, on the aforesaid preliminary objection raised by

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<sup>9</sup> “the Tribunal”, hereinafter



the respondent, at length.

**15.** Mr. Chhibber submits that the Tribunal would not have jurisdiction to deal with the present matter, for two reasons.

**16.** The first is that the claim of the petitioner is predicated on an OM issued by the DOPT, which required the DOPT to be impleaded as a party and the Tribunal would not have jurisdiction over the DOPT.

**17.** The second is that the Tribunal would also not have jurisdiction over the KSB, which has passed the impugned order dated 11 April 2022.

**18.** Mr. Chhibber has taken us, in this connection, through Section 3 (o)<sup>10</sup> of the Armed Forces Tribunal Act, 2007<sup>11</sup>. He has also placed reliance on judgment of the Supreme Court in *UOI v Colonel G.S.*

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<sup>10</sup> (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;
- (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—
  - (i) order issued under Section 18 of the Army Act, 1950 (46 of 1950), sub-section (1) 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 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);
  - (iii) leave of any kind;
  - (iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;

<sup>11</sup> “the AFT Act”, hereinafter



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*Grewal*<sup>12</sup> as well as the judgment of the Full Bench of the Tribunal in *Lt Gen (R) S.S. Dahiya v UOI*<sup>13</sup>.

19. Ms. Kaul, on the other hand, submits that the Tribunal would be well within its jurisdiction in deciding the present *lis* and also submits that the Tribunal has passed orders issuing directions to the KSB and that, therefore, it is not as though the KSB is entirely outside the jurisdiction of the Tribunal.

20. She has drawn our attention to order dated 9 April 2018 passed by the Principal Bench of the Armed Forces Tribunal in OA 1273/2017<sup>14</sup> and order dated 7 September 2015 passed by the Kochi Bench of the Armed Forces Tribunal in OA 165/2014<sup>15</sup>.

21. We have considered submissions of learned Counsel for both sides and perused the relevant statutory provisions and the orders which have been cited at the Bar.

22. The relief sought by the petitioner was after he had retired from the services of the IAF. As such, the case would, if at all, be covered by Section 2 (2) of the AFT Act, which reads thus:

“(2) This Act shall also apply to retired personnel subject to the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950), including their dependants, heirs and successors, in so far as it relates to their

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<sup>12</sup> (2014) 7 SCC 303

<sup>13</sup> Judgment dated 24 July 2015 in OA 483/2013

<sup>14</sup> Major Harpal Singh Virk (Retd.) v UOI

<sup>15</sup> T Selvaraj v UOI



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service matters.”

**23.** Section 2 (2) of the AFT Act clearly covers all retired personnel subject to the Army Act, the Navy Act or the Air Force Act as well as their dependents, heirs and successors insofar as the dispute relates to their service matters.

**24.** There is no dispute about the fact that the petitioner falls within the definition of “retired personnel subject to the Air Force Act, 1950”. The controversy, therefore, narrows down to whether the claim of the petitioner can be treated as a “service matter” for the purposes of Section 2 (2) of the AFT Act.

**25.** When one reads the definition of “service matter”, one finds that it is clothed in the “means ... and includes” format. It is well settled that, in such definitions, the inclusion, in the latter part of such definition clauses, of specific examples or circumstances, is intended to broaden the definition beyond that which the earlier “means” part connotes<sup>16</sup> and cannot, therefore, in any case restrict the scope of the “means” part of the clause. This is distinct from a situation in which the definition uses the expression “means and includes”, in which case Courts have, on occasion, treated the definition as exhaustive, rather than expansive, in nature.<sup>17</sup>

**26.** Applying the aforesaid principle, all matters relating to conditions of service of persons subject to the Air Force Act would be

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<sup>16</sup> **Indian Handicrafts Emporium v UOI, (2003) 7 SCC 589** (para 27)



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covered by Section 3(o).

27. The expression “conditions of service” stands defined by the Supreme Court in *State of M.P. v Shardul Singh*<sup>18</sup> as including “all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement *and even beyond it in matters like pension, etc*”. Thus, matters, and claims, relating to the service rendered by the employee concerned, would also be included within the ambit of the expression “conditions of service” even after he has retired from service.

28. Inasmuch as the claim of the petitioner, for being accorded ESM status is relating to the service rendered by him in the IAF, the dispute would clearly fall within the ambit of the expression “all matters relating to the conditions of service” and would, therefore, constitute a “service matter” within the meaning of the Section 3(o) of the AFT Act and, *mutatis mutandis*, Section 2(2) thereof.

29. Adverting, now, to the decision in *G.S. Grewal*, cited by Mr Chhibber, we find that the Supreme Court has not, in the said case, declared the law relating to the aspect of jurisdiction of the Tribunal. We may reproduce for this purpose, para 26 of the report in that case:

“26. No doubt, it is open to Mr Bhati to refer to the statutory provisions in the AFT Act or even the Army Act in support of his submission. But many other documents of which the learned counsel is relying upon were not part of the record before the

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<sup>17</sup> *State of Tamil Nadu v Adhiyaman Educational and Research Institute*, (1995) 4 SCC 104 (para 26)

<sup>18</sup> (1970) 1 SCC 108



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Tribunal. Secondly, as already pointed out above, no such aspects are considered either by the Chandigarh Bench in the impugned judgment or by the Principal Bench in Major General S.B. Akali case [*Major General S.B. Akali v Union of India, TA No. 125 of 2010, order dated 9-4-2010 (Tri)*]. We may point out that merely because the respondent is subject to the Army Act would not by itself be sufficient to conclude that the Tribunal has the jurisdiction to deal with any case brought before it by such a person. It would depend upon the subject-matter which is brought before the Tribunal and the Tribunal is also required to determine as to whether such a subject-matter falls within the definition of “service matters”, as contained in Section 3(o) of the AFT Act. In *Major General S.B. Akali*, the Principal Bench primarily went by this consideration. *The subject-matter was promotion to the rank of Lieutenant General and this promotion was governed by the Rules contained in the Policy of DRDO and not under the Army Act. Therefore, in the instant case, it is required to be examined as to whether the relief claimed is entirely within the domain of DGQA or for that matter, the Ministry of Defence or it can still be treated as “service matter” under Section 3(o) of the AFT Act and two aspects are intertwined and inextricably mixed with each other.* Such an exercise is to be taken on the basis of documents produced by both the sides. That has not been done. For this reason, we deem it proper to remit the case back to the Tribunal to decide the question of jurisdiction keeping in view these parameters.”

(Emphasis supplied)

It is significant to note that, even while refraining from finally pronouncing on whether the *lis* would, or would not, be amenable to adjudication by the Tribunal, the Supreme Court nonetheless elucidated the applicable test as being whether the right claimed was “governed by the Rules contained in the policy of the DRDO and not under the Army Act”; that is, “whether the relief claims is entirely within the domain of the DGQA or for that matter, the Ministry of Defence or ... *two aspects are intertwined and inextricably mixed with each other*”, in which case it could “still be treated as ‘service matter’ under Section 3(o) of the AFT Act”.



30. In *G.S. Grewal*, therefore, the Supreme Court disapproved of the decision of the Tribunal to ignore its earlier precedent in *S.B. Akali*, in which a similar issue had come up. The Supreme Court, therefore, deemed it appropriate to remit the matter to the Tribunal to take a view on the aspect of jurisdiction keeping in mind the decision taken in *S.B. Akali*.

31. The Full Bench in *S.S. Dahiya* has actually undertaken this exercise after considering the judgment of the Supreme Court in *G.S. Grewal* as well as its earlier decision in *S.B. Akali*. We deem it appropriate to reproduce the following paragraphs from the judgment of the Full Bench of the Tribunal:

“31. Therefore, the answer to question No.1 is that, the Army personnel even after permanent secondment to the DRDO or to DGQA remain subject to Army Act, 1950, and the Army Rules, 1954, for limited purpose to the extent prescribed by law. Such personnel are not subject to all provisions of the Army Act and the rules framed there under and DSR for the Army.

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35. In the background of above discussion, we are of the considered opinion that the view taken in *Maj Gen S.B. Akali's case* appears to be correct, and we may hold, that the Army personnel permanently seconded to the DRDO and DGQA, continued to be subject to Army Act and Rules to a limited extent and such persons are governed by the Office Memorandum/Rules framed for the personnel in DRDO and DGQA. *In this peculiar situation of application of dual service conditions to members of "Corps", two situations may arise. One, pertaining to a Service dispute arising out of action/inaction by the Army authority exercising, (or who is supposed to decide the matter in exercise of powers vesting by virtue of the Army Act, rules or under DSR or Govt. orders. Others are those related to orders/action or inaction under separate terms and service conditions applicable to respective Departments. In view of the totally separate controlling*



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*authorities for different corps under the same Defence Ministry, the grievance and redressal can be through the controlling authority and the respective departments for the Corps. If the subject matter in an OA falls in and gives right and remedy under the Army Act and/or the Army Rules, then the Armed Forces Tribunal has jurisdiction to decide the issues raised in such OAs. If the subject matter raised in OA pertains to service conditions under specific Government orders or Office Memorandums applicable to any Member of the DRDO or DGQA (who become Members of such organisation because of permanent secondment), then such disputes cannot be adjudicated by the Armed Forces Tribunal.*

36. In the case of Lt Gen S.S. Dahiya, his grievance is with respect to not giving the appropriate scale of pay to him in spite of several specific recommendations in his favour even upto the level of Defence Secretary and the Raksha Mantri. We need not to categorise those recommendations by which it has been recommended that petitioner may be granted the HAG + Scale because of the reason that we have to decide that whether the AFT has jurisdiction to decide this issue treating it to be a service matter as defined under the AFT Act, 2007.

37. According to facts stated in OA 483/2013, there are so many recommendations and notes whereby petitioner's case for grant of HAG+Scale has been recommended. Yet, by letter dated 13.07.2010, annexed with the OA 483/2013 at page 37, the Under Secretary in the Ministry of Defence forwarded the petitioner's case to the DRDO with request to the Controller of Authorities to examine the cases at their end for grant of HAG + Scale to the Officers. Along with this letter dated 13.07.2010, petitioner Lt Gen S.S. Dahiya's representation dated 19.02.2010 and the legal notice dated 24.06.2010 were also send to the DRDO for necessary action. The petitioner S.S. Dahiya's contention is that even after so many recommendations in favour of the petitioner no relief has been granted to the petitioner. His matter was sent from one office to another office without taking any decision. According to the petitioner the decision is required to be taken by the Government and the Competent Authority in the Government. The petitioner, even after permanent secondment, is still under the administrative control of the Ministry of Defence under Raksha Mantri and, therefore, they have to take a decision and, therefore, this prayer can be made under the Army Act. Therefore, the cases, where question of promotion or expungement of ACRs have been raised, and the Tribunal has held that such matters pertain to the specific service condition under DRDO or DGQA the Tribunal, for different subject matter held, that the Armed Forces Tribunal has



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no jurisdiction to decide the issue. The petitioner's case is distinguishable as he is not claiming any promotion or expungement of ACRs, but is claiming the Pay & Allowances for which he is entitled to by virtue of his service in the Army and in a particular rank, and which benefit has been given to not only the officers who were his batch mates, but such benefit has been given to his junior also.

38. After our thoughtful consideration, *we are of the view that Pay & allowances to permanently seconded DRDO personnel have been made at par with officers of their respective rank in the Army by virtue of adoption of the Pay & allowances under the petitioner's service conditions under Office Memorandum dated 23.11.1989. As per Para 12 of the Office Memorandum dated 23.11.1979 the Pay & Allowances may also be different. But incidentally no different Pay & Allowances have been specified for the Officers of the DRDO till petitioner's retirement or may be even thereafter. Relevant is clear from Para 12 of the Office Memorandum dated 23.11.1979, which is as under:-*

*“Unless, otherwise, specified the officers get allowances and other benefits of their respective service”*

*Therefore, the petitioner is not getting the Pay & Allowances because he is entitled to Pay & Allowances under the Army Act, or Rules framed there under or in view of the DSR or any order passed for Regular Service Officers. Because of the application of dual service conditions a number of benefits under the Army Act or liability may continue to apply upon the permanently seconded officers. The pay and allowances may be exactly same as of regular Army Officer but that is by virtue of provision made in DRDO service conditions specifically it is due to para 12 (supra). Therefore, the retiral benefits including the disability pension etc., if they are allowed, at par or even under the Army Act, but they are given to the permanently seconded officer of DRDO because of the adoption of the above rules by the DRDO. Here, the Pay & Allowances have been adopted by the Office Memorandum prescribing the service conditions of the permanently seconded DRDO Officers and, therefore, for this benefit the decision can be taken administratively through the Director General Research & Development (DGR&D) in view of the Para 12 of the Office Memorandum dated 23.11.1979. Therefore, such issue is arising under the DRDO service condition Memorandum issued by the order of the Government and not applicable to Army personnel in regular Army. Hence, the subject matter in OA 483 of 2013 are not the “service matter” as defined in Sec. 3(o) of the AFT Act, 2007.”*

*(Emphasis supplied)*



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**32.** *S.S. Dahiya*, therefore, holds that, while examining whether the claim raised by a person who was earlier working with the Army, Navy or Air Force and is at the time of preferring the claim was working with another organization, the test to be applied is whether the claim is predicated on a right which is specifically available to the members of such other organisation or is relatable to the service rendered by the concerned employee with the Army, Navy or Air Force prior to joining the said organization. In the case before it, the Full Bench found that the claim of the applicants before it was for grant of appropriate scale of pay for the services which were being rendered by them in the Defence Research and Development Organization<sup>19</sup> and the Directorate General of Quality Assurance<sup>20</sup>. The Full Bench crafted out two categories of cases which could arise in such circumstances. As per para 35 of the judgment of the Full Bench, cases in which the subject matter of the OA, which was filed before it, related to a right and remedy which arose under the Army Act and/or the Army Rules, the Tribunal would have jurisdiction to decide the issue. However, if the right claimed related to a service condition *under specific Government order or Office Memorandums applicable to any member of the DRDO or DGQA*, then the dispute would not be amenable to jurisdiction by the Tribunal.

**33.** We find ourselves in respectful agreement with this legal position, as expounded by the Full Bench of the Tribunal.

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<sup>19</sup> “DRDO”, hereinafter

<sup>20</sup> “DGQA”, hereinafter



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**34.** When one reads this exposition of the law, with para 38 of the judgment of the Full Bench of the Tribunal, we find that the Tribunal found, on facts, that the benefits which were being sought by the applicants before it, were given to permanently seconded officers of the DRDO or the DGQA *because of the adoption, by the said organizations, of the pay and allowances which were applicable to personnel serving with the Armed Forces.* As such, the right did not arise directly because of the service rendered with the Armed Forces but because of the adoption by the DGQA or DRDO of the scales of pay and allowances which applied to personnel who served with the Armed Forces.

**35.** Following this, the Full Bench reasoned that as the relief sought was relatable to the adoption, by the DGQA or DRDO, of the service conditions applicable to the Armed Forces, which would therefore be specific to the personnel working with the DRDO and DGQA, the right did not directly flow from any provision of the Army Act or Army Rule and was not directly relatable to the service rendered by the applicants before it with the Armed Forces. Expressed otherwise, had the DGQA, or the DRDO, *not adopted* the service conditions applicable to the Armed Forces, the applicants before the Tribunal would have had no case.

**36.** As such, it was held that the Tribunal would not have jurisdiction to adjudicate on the dispute. This reasoning, we may note, is also in sync with the view expressed by the Supreme Court in *G.S.*



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*Grewal.*

**37.** Extrapolating the said reasoning to the facts of the present case, the ESM status that the petitioner before us is claiming is directly relatable to the service rendered by him in the Army. It is not on account of adoption, by the KSB or any other organization, of the service conditions which governed the petitioner during his tenure in the Army. It is, equally, not a dispensation which is specially made applicable to persons working with the KSB or any other organization. As such, the Tribunal even on that sole ground, would have jurisdiction to entertain the present petition as an Original Application before it.

**38.** We also note that the Tribunal has been issuing directions to the KSB on earlier occasions. Of course, that may not be determinative of the controversy. We merely noted as a passing observation.

**39.** We also find ourselves unable to agree with Mr. Chhibber's submission that the Tribunal would not have jurisdiction to entertain the dispute because the DOPT would fall outside its jurisdiction.

**40.** We in fact have our doubts as to whether the DOPT was a necessary respondent in this case at all as no relief was being claimed from DOPT and the petitioner was merely predicating its rights on an OM issued by the DOPT. Day in and day out, matters are filed before the Central Administrative Tribunal, in which Government servants base their rights on OMs issued by the DOPT. The DOPT is not made



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a party in every such case.

**41.** We, however, leave this aspect of the matter open for final decision by the learned Tribunal. In any event, as no relief was being sought against the DOPT, the mere inclusion by the DOPT as a respondent in the present petition would not denude the Tribunal of its jurisdiction to decide the *lis*.

**42.** In view of the aforesaid, we sustain the preliminary objection raised by Ms. Aakanksha Kaul. We are of the opinion that the *lis* in this writ petition is amenable to adjudication by the Tribunal.

**43.** Instead of requiring to file a fresh OA before the Tribunal, we give liberty to the petitioner to present this writ petition before the Tribunal, which would treat the writ petition and the records contained therein as an Original Application before it and proceed to decide the petition in accordance with law after hearing the parties and as per the procedure of the Tribunal, as expeditiously as possible given the nature of the reliefs that the petitioner seeks.

**44.** In order to expedite matters, the parties may appear before the Tribunal on 7 April 2025. We direct the Registry to return the papers of this writ petition to the petitioner, on the petitioner approaching it, so that the petitioner could present them before the Tribunal.

**45.** We make it clear that we have expressed no opinion on the merits of the dispute.



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**46.** The writ petition stands disposed in the aforesaid terms.

**C. HARI SHANKAR, J.**

**AJAY DIGPAUL, J.**

**MARCH 19, 2025/AS/Aky**

*Click here to check corrigendum, if any*