

(2011) 04 JH CK 0031

Jharkhand High Court

Case No: Writ Petition (S) No. 4841 of 2008

Sepoy Ramesh Prasad

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: April 4, 2011

Acts Referred:

- Armed Forces Tribunals Act, 2007 - Section 14, 63
- Constitution Of India, 1950 - Article 226, 227

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Narendra Nath Tiwari, J.

In this interlocutory application, the Respondents have prayed for transferring the writ petition [W.P.(S) No. 4841 of 2008] to Armed forces Tribunal at Kolkata.

2. It has been stated that the Tribunal has been specially constituted for hearing the matters relating to army personnel. The Tribunal is functioning at Kolkata. According to section-14 of Armed Forces Tribunal Act, 2007, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts(except the Supreme Court or a High Court exercising jurisdiction under Article 226 and 227 of the Constitution) in relation to all service matters. The writ petition squarely falls within the jurisdiction of the Armed Forces Tribunal Act, 2007 and, as such, the writ petition is fit to be transferred to the Armed Forces Tribunal at Kolkata.

3. Learned Counsel, appearing on behalf of the Petitioner, opposed the Respondents' prayer and submitted that the impugned order is without jurisdiction as no offence u/s 63 of the Armed Forces Tribunal Act is constituted on the facts and the allegations made against the Petitioner. This Court has, thus, jurisdiction to hear the writ petition under Article 226 of the Constitution of India.

4. I have heard learned Counsel for the Respondents and learned Counsel for the Petitioner.

5. Without going into the merit of the case, I find that the writ petition relates to the matter pertaining to Armed Forces Tribunal, constituted for the purpose of deciding all the disputes relating to the service matter. That position of law is not disputed by learned Counsel for the Petitioner.

6. Considering the above, this application is allowed. The writ petition [(W.P. (S) No. 4841 of 2008] is transferred to the Armed Forces Tribunal at Kolkata.