

Miss Roy, learned counsel appearing for the applicant submits that after the matter had been adjudicated by the Hon'ble Single Bench of the Circuit Bench of Calcutta High Court at Port Blair vide its order dated 17.12.2012, it had been remitted before this Tribunal. Against the decision of the Hon'ble Single Bench, an appeal had been filed by the respondents before the Hon'ble Division Bench and the Hon'ble Division Bench vide order dated 03.04.2013 have upheld the decision of the Hon'ble Single Bench with the variation that the matter be transferred to this Tribunal in terms of the provisions of Section 34 of the Armed Forces Tribunal Act, 2007.

We have heard the rival contentions of both sides. We are of the view that since the Hon'ble Division Bench have upheld the decision of the Hon'ble Single Bench and the matter has been transferred to this Tribunal accordingly. In such view of the matter legal presumption would follow that the matter had been duly considered at least from the point of view of maintainability on the ground of limitation and thereafter stood admitted as being filed within the prescribed period of time. In such circumstances, the question of limitation at this belated stage does not arise at all. More so, when the learned counsel for the respondents also did not raise the question of maintainability on the ground of limitation either before the Hon'ble Single Bench or before the Hon'ble Division Bench at Port Blair. In that view of the matter, the objection raised by Mr. Das vide the supplementary A/O stands overruled.

The parties have already filed their respective A/O and A/R to the application and they are kept with the record. Mr. Das submits that he would rely on their A/O filed before the Hon'ble Circuit Bench of the Calcutta High Court at Port Blair.

We, however, observe that despite our earlier order dated 10.02.2014, the respondents, the naval authorities have failed to submit the original relevant records pertinent to this case. Mr. Das prays for another two weeks to submit these records. Such prayer stands granted. The respondents are once again directed to produce all the original records pertinent to this case positively before the next date of hearing.

Since the pleadings in this case are complete excepting production of the original records, let the matter appear for hearing on 17.06.2014.

The original records be produced by the respondents in the meantime.

A plain copy of the order, duly countersigned by the Tribunal Officer, be given to the parties upon observance of all usual formalities.

(Lt Gen K.P.D. Samanta)
Member (Administrative)

(Justice Raghunath Ray)
Member (Judicial)