



THE ARMED FORCES TRIBUNAL LAW (2010 Ed.). By Maj. Gen. Nilendra Kumar (retd.). Universal Law Publishing Co. Pvt. Ltd, C-FF-1A, Dilkhush Industrial Area, G.T. Karnal Road, Delhi. Pp. xxxviii + 357. Price Rs. 395/-.

ONE BIG travesty of Indian legal system is that even in the new millennium, it is working with laws of 19th century vintage under a new progressive Constitution with core values of democratic ideals, human rights and justice as essential foundation of the polity. The present military justice system is no exception. The laws that govern the armed forces namely, the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957, are primarily based on 19th century mindset that military laws should be tough based on 'spit and polish' principle. Such laws are out of tune with times. The military personnel in uniform today are educated, well informed and sensitive about the entire social milieu. The cumulative effect of archaic command structures, military administration and justice, the out-mode military leadership model and obviously, the stress of exigencies of military service reflects itself in increasing number of suicides by defense personnel, shooting of senior officers, desertions from duty and increasing number of court cases in recent past. By enacting the Armed Forces Tribunal Act, 2007, the first step in making military justice transparent and fair has been taken. The major step is yet to be taken in terms of enacting, amending and updating the armed forces laws to make them compatible with the imperatives of the new millennium.

The book under review is a welcome addition to the scanty literature on military justice presently available. The author has already made a significant contribution by writing half a dozen books on military justice and allied subjects. In the present work, he has copiously referred to the numerous recommendations and suggestions of the apex court¹ and other

1. *Prithipal Singh Bedi v. Union of India*, AIR 1982 SC 1413. With the expanding horizons of fair play in action even in administrative decisions, the Universal Declaration of Human Rights and retributive justice being relegated to the uncivilized days, a time has come when a step is required to be taken for at least one review and it must truly be a judicial review as and by way of appeal to a body composed of non-military personnel or civil personnel.



expert bodies² to fortify the argument that Armed Forces Tribunal Act, 2007 meets an urgent need of making provision for at least one appeal which could be disposed off with judicial prudence.³ The existing laws on armed forces do not provide for even one judicial appeal and they leave the scope for arbitrariness in court martial proceedings, violation of principles of natural justice, laws of evidence and disproportionate and harsh punishments. Such military justice leads to erosion of morale of the armed forces personnel and their trust in the guarantee of justice under the Constitution.

Now, that the long felt need for the Armed Forces Tribunal has been met, it is too early to assess its efficacy and efficient working. The author has supplied notes, explanations and comments on the meaning, connotation of concepts and terms used, e.g. “Conditions of Service”⁴ and “Retired.”⁵ At places, he has tried to make an analytical assessment of the likely impact of certain provisions. The mandate of the Armed Forces Tribunal Act is fairly wide and provides for the adjudication and trial of disputes and complaints about conditions of service as also to provide for appeals against orders of court martial and for incidental matters. The author has also pointed out by reference to the views of members of Rajya Sabha expressed during debate in the House, the limited nature of the Act in terms of what it does not provide for. The author is of the view that the words “any other matter” in section 2(2)(o)(iv) are elaborate enough to cover wide variety of other issues.⁶ The inherent contradiction between judicially-oriented Armed Forces Tribunal Act and the three major army, navy and air force Acts still persists. The larger issue of revamping these three Acts is yet to be undertaken and some members of Rajya Sabha made had reference to

2. The Standing Committee on Defense in its 20th Report submitted to Lok Sabha on August 19, 2003 *inter alia* had recommended that a special court of appeal on the lines of countries like France, Germany, Russia, Sweden and U.K. be constituted for redressal of grievances of the service personnel. The Law Commission of India in its 169th Report (Chapter - V) had recommended that an appropriate forum to entertain appeals against final orders passed by courts martial should be established (Maj. Gen. Nilendra Kumar, *The Armed Forces Tribunal Law* 162-63 (2010).

3. *Armed Forces Tribunal Law*, *id.* at 162, 165.

4. *Id.* at 6.

5. *Id.* at 7.

6. *Id.* at 9.



this wider question.⁷

The book is not designed to be an exhaustive and critical treatise on the subject. At best, it can serve as a ready reckoner of the statutory provisions relating to armed forces. It is a good and elaborate compendium which incorporates the entire statutory law – the three major army, navy and air force Acts, the Armed Forces Tribunal Act, 2007 along with all the rules on Armed Forces Tribunal Act inclusive of various forms, registers and schedules. The detailed reference to the views of Rajya Sabha members during debate on Armed Forces Tribunal Bill and deliberations and recommendations of the parliamentary standing committee have enriched the work to help the reader understand and appreciate as to whether the Act meets both the short term and long term objectives or it ultimately proves to be a half measure towards solution of diverse issues of military justice regime. The book and its title cover are well designed with fine printing of the text. It contains a table of cases. However, one would wish that in the next edition, the author should include a critique of case law so as to give the reader a perspective on the judicial thinking.

The layout of the book, its coverage, the conceptual clarity through notes and comments exhibit a high professional standard of the author and his erudite scholarship and understanding of diverse nuances of military justice regime. It is hoped, as per desire of the author in the Preface,⁸ that the book proves useful to the tribunal, law practitioners, law schools and the litigants at large.

Veer Singh*

7. See the views of R.R. Ragin and N.P. Durga, *id.* at 6-7. See also G.P. Pilania, (Rajya Sabha), while lamenting at nearly empty House during debate, advised that Armed Forces Tribunal Bill deserved careful consideration and detailed deliberation. He culled out two specific objectives of the Bill (*id.* at 3). See also the views of P.R. Rajan (Rajya Sabha), *id.* at 10.

8. *Armed Forces Tribunal Law*, *supra* note 3 at v.

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