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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 15 November 2025*  
*Pronounced on: 23 February 2026*

+ W.P.(C) 12769/2024 &amp; CM APPL. 53189/2024

UNION OF INDIA .....Petitioner  
Through: Mr. Vikramjit Banerjee, ASG,  
with Ms. Aakanksha Kaul, Mr. Aditya  
Kashyap, Mr. Varun Pratap Singh, Ms.  
Ashima Chopra, Adv. with Major Anish  
Muralidhar and Brig Ajeen Kumar

versus

LT COL MUKUL DEV .....Respondent  
Through: Mr. Rajiv Manglik, Mr. A.K.  
Trivedi, Mr. Ajit Kakkar and Ms. Sonal  
Singh, Adv. with Col Mukul Dev

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

% **JUDGMENT**  
**23.02.2026**

**C. HARI SHANKAR, J.**

**A. The Issue**

1. We are required, in this writ petition, which emanates from a detailed judgment dated 31 July 2024 of a Full Bench of three learned Members of the Armed Forces Tribunal, New Delhi<sup>1</sup>, to interpret

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<sup>1</sup> "AFT" hereinafter



Sections 19<sup>2</sup> and 29<sup>3</sup> of the Armed Forces Tribunal Act, 2007<sup>4</sup>, read with Rule 25<sup>5</sup> of the Armed Forces Tribunal (Procedure) Rules, 2008<sup>6</sup>.

2. Expressed otherwise, we are required to gauge the reach of the arms of the AFT, in ensuring implementation of the orders passed by it.

3. The issue is purely legal and, therefore, is fact agnostic.

4. The Armed Forces Tribunal Amendment Bill, 2012

Before, however, proceeding to the issue, it has to be mentioned that the Armed Forces Tribunal Amendment Bill, 2012<sup>7</sup> proposed to substitute Section 19 of the AFT Act to read as under:

“19. The Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of

<sup>2</sup> 19. **Power to punish for contempt.** –

(1) Any person who is guilty of contempt of the Tribunal by using any insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Tribunal shall, on conviction, be liable to suffer imprisonment for a term which may extend to three years.

(2) For the purposes of trying an offence under this section, the provisions of Section 14, 15, 17, 18 and 20 of the Contempt of Courts Act, 1971 (70 of 1971) shall mutatis mutandis apply, as if a reference therein to—

- (a) Supreme Court or High Court were a reference to the Tribunal;
- (b) Chief Justice were a reference to the Chairperson;
- (c) Judge were a reference to the Judicial or Administrative Member of the Tribunal;
- (d) Advocate-General were a reference to the prosecutor; and
- (e) Court were a reference to the Tribunal.

<sup>3</sup> 29. **Execution of order of Tribunal.** – Subject to the other provisions of this Act and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.

<sup>4</sup> “the AFT Act” hereinafter

<sup>5</sup> 25. **Powers of the Tribunal with regard to certain orders and directions.** – Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

<sup>6</sup> “the 2008 Rules” hereinafter

<sup>7</sup> “the 2012 Bill” hereinafter



the Contempt of Courts Act, 1971 shall have effect subject to the modifications that-

- (a) the references therein to a High Court shall be construed as including a reference to such Tribunal;
- (b) the references to the Advocate-General in section 15 of the said Act shall be construed in relation to the Armed Forces Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General.”

However, the 2012 Bill was withdrawn and, therefore, never received Parliamentary or Presidential assent.

## 5. A Brief Preliminary Overview

**5.1** The issue in controversy essentially revolves around the powers of the AFT to ensure that its orders are implemented. As the impugned order notes, 5612 orders, passed by the AFT, were unimplemented on the date when the impugned order was passed. This resulted in a serious relook being necessary, regarding the power of the AFT to ensure that its orders were implemented.

**5.2** The discussion before us as, indeed, before the AFT, largely revolved around the power of civil contempt and as to whether such a power inherently vests in a judicial or quasi judicial authority, in the absence of specific conferment. This discussion is, however, to our mind, really innocent of the actual issue in controversy.

**5.3** The AFT Act does not refer either to civil contempt or criminal contempt. The power of the AFT to punish for contempt cannot be disputed, as Section 19(1) is clear on that score. Section 19(1) does



not use the expression “civil contempt” or “criminal contempt”. Section 19(1) envisages any person who (i) uses insulting or threatening language, or (ii) causes any interruption or disturbance in the proceedings of the Tribunal, as having committed contempt and, if convicted in that regard, being liable for imprisonment up to three years.

**5.4** The nomenclature of the contempt which such a person would have committed hardly matters. The provision provides that, if the person commits any of the acts envisaged in the provision, he has committed contempt. *Proprio vigore*, he becomes liable to suffer the penal consequence envisaged in the provision.

**5.5** The AFT framed two issues as arising for consideration by the Larger Bench. We follow the example set by the AFT and refer to them as Issue 1 and Issue 2.

**5.6** Issue 1 pertained to Section 19 and read thus:

“Whether a willful disobedience to or non-implementation of its order may amount to causing any interruption or disturbance in the proceedings of this Tribunal thereby attracting action for contempt, under Section 19 of the Act read with Rule 25?”

**5.7** In substance, therefore, what the first question before the Larger Bench, as framed above, essentially set up for adjudication, was whether willful disobedience with an order passed by the AFT could be regarded as causing interruption or disturbance in its proceedings. If it could, the person so guilty of disobeying the AFT’s order would have to suffer the wrath of Section 19(1).



**5.8** Issue 2, as framed by the Full Bench, read as under:

“To include any other question, as may be considered relevant by the Larger Bench to the issue in question inclusive of the scope and ambit of Section 29 of the AFT Act, 2007 for effecting compliance/execution of the orders of this Tribunal”

**B. The Impugned Order**

6. The afore-noted two issues were answered by the AFT as under:

7. Regarding Issue 1, the AFT has held that it has powers to punish for contempt of itself or of its orders for upholding its majesty and dignity and for it to be effectively functional. Following this observation, the AFT concludes its discussion with respect to Issue 1 thus:

“260. The contention thus raised on behalf of the applicants of CA 4/2014, CA 7/2014, CA 4/2022 and observations in CA 1/2023 and CA 2/2023 and the submissions by the Ld. Amicus Curiae that repeated defiance despite final adjudication of rights of the Armed Forces personnel, and the repeated non-compliance of the said orders by the respondents, where there is no stay of the operation of the orders of which implementation has been sought, by the applicant thereof, the continuous recalcitrant attitude and non-compliance of the directions of this Tribunal has essentially to fall within the ambit of contempt in terms of Section 19 of the AFT Act 2007, has to be accepted.

Issue No. 1 is answered accordingly.

However, we consider it essential to observe that there can be no unfettered use of the powers of contempt in terms of Section 19 of the AFT Act 2007, which as rightly contended by the learned amicus curiae Mr. Rajshekhar Rao, Sr. Advocate is an extraordinary action to be taken by the Tribunal. The invocation of the said powers of 'contempt' in terms of Section 19 of the AFT Act 2007 thus have to be exercised with caution and care, in the



specific facts and circumstances of each case.

REFERENCE ANSWERED QUA ISSUE NO. 2 BEFORE THIS BENCH

Issue No. 2 reads to the effect:-

“To include any other question, as may be considered relevant by the Larger Bench to the issue in question inclusive of the scope and ambit of Section 29 of the AFT Act, 2007 for effecting compliance/execution of the orders of this Tribunal.””

8. With respect to Issue 2, unfortunately, the impugned order does not provide any categorical opinion except for referring to Rule 25 of the 2008 Rules.

9. In arriving at its decision, the AFT proceeded on the following reasoning:

(i) The principle *ut res magis valeat quam pereat* requires a court, when faced with a choice between two interpretations of a statute, one of which is narrower and would fail to achieve the purpose of the legislation, and the other which would promote the purpose of the legislation but may be bold in its nature, to prefer the bold interpretation.

(ii) Despite the sheer magnitude of number of orders of the AFT which had not been complied with, the departmental authorities were seeking to contend that the AFT could not take any action against them under Section 19 of the AFT Act. In other words, it was sought to be contended that Section 19 did not address a situation of non-compliance with the orders passed



by the AFT.

(iii) Article 33<sup>8</sup> of the Constitution of India did empower the Parliament to modify the fundamental rights conferred by Part III of the Constitution in its application to members of the Armed Forces, but such abridging could only be to the extent it was provided by Parliament. Fundamental rights of Armed Forces personnel could not be abridged beyond the extent provided by Parliament in terms of Article 33 of the Constitution. Thus, the ordinary right of every citizen to invoke the inherent power of contempt vested in a body which was charged with the duties to adjudicate on disputes was sacrosanct and remained preserved.

(iv) The right to ensure that orders passed by the AFT were enforceable by the AFT also flowed from the principle *ubi jus ibi remedium*.

(v) Section 14(1)<sup>9</sup> of the AFT Act provided that the AFT would exercise, on and from the appointed day, all jurisdiction, power and authority exercisable immediately before that day by

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<sup>8</sup> 33. **Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.** – Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

- (a) the members of the Armed Forces; or
  - (b) the members of the Forces charged with the maintenance of public order; or
  - (c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or
  - (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),
- be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

<sup>9</sup> 14. **Jurisdiction, powers and authority in service matters.** –

- (1) Save as otherwise expressly provided in this Act, 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 Articles 226 and 227 of the Constitution) in relation to all service matters.



all courts except the Supreme Court or a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution in relation to service matters. Thus, by virtue of Article 215<sup>10</sup> of the Constitution of India, the AFT would be deemed to have all powers of a court of record, which would include the power to punish for contempt of itself.

(vi) Where the order made by a court – in the instant case, by the AFT – was disobeyed by contumacious defiance, and the person disobeying the order conducted himself or itself through its agents in a manner which amount to obstruction to, or interference with, the course of justice, it amounted to contempt of a mixed character, civil as well as criminal, but, in any case, amounted to commission of contempt within the meaning of Section 19 of the AFT Act.

(vii) Section 41 of the AFT Act empowered the Central Government to make rules for carrying the provisions of the AFT Act by notification. The Armed Forces Tribunal (Practice) Rules 2009<sup>11</sup> were notified *vide* SRO 26(E) dated 17 September 2008. Rule 10(2)<sup>12</sup> of the Practice Rules required contempt applications

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<sup>10</sup> **215. High Courts to be courts of record.** – Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

<sup>11</sup> “the Practice Rules” hereinafter

<sup>12</sup> **10. Scrutiny of application or petition or other pleadings and papers.** –

(1) The Scrutiny Branch of the Registry shall, on receipt of the application or appeal or pleadings from the receiving branch, scrutinise the same as expeditiously as possible but not beyond two days from the date of receipt:

Provided that if, for any reason, the scrutiny is not completed within the said period, the same shall be immediately reported to the Registrar, who shall take prompt steps to complete the scrutiny.

(2) The report of the scrutiny of the application shall be in Form No. 2 and of Contempt Application either Civil or Criminal in Form No. 3 and the scrutiny report shall be annexed to the application or appeal



to be scrutinized in Form No. 3, whether civil or criminal, and for the scrutiny report to be annexed to the application or appeal. Note 2 in the said Form specifically identified the parties to be impleaded in the case of civil contempt as well as criminal contempt. Thus, the Practice Rules envisaged power, with the AFT, to proceed for civil contempt.

(viii) The rules framed under Section 41 of the AFT Act were required, in terms of Section 43<sup>13</sup>, to be placed before each House of Parliament, when in session, for a period of 30 days after they were made. The consequent Gazette Notification enforcing the rules had, therefore, the same force as an Act of Parliament.

(ix) The AFT possessed all the trappings of a Court and exercised the powers vested in High Courts in respect of service matters relating to members of the Armed Forces, before they were transferred to the AFT on coming into effect of the AFT Act. This clearly indicated that the AFT had powers to punish for contempt of itself and its orders for upholding majesty and dignity of the institution and for it to be effectively functional.

(x) That said, proceedings under Section 19 of the AFT Act were extraordinary proceedings, which could be taken only in extreme cases. Section 19 was not meant to be routinely invoked,

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<sup>13</sup> 43. **Laying of rules.** – Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



where the circumstances did not so warrant.

### C. Rival Contentions

10. We have heard Mr. Vikramjit Banerjee, learned Additional Solicitor General for the Union of India and Mr. Manglik, learned Counsel for the respondent, at length.

#### I. Submissions of learned ASG

11. The learned ASG submits that power to punish for civil contempt cannot be conferred by implication. The AFT Act does not confer any power on the AFT to punish for disobedience of orders passed by it, and that is how it must be. He submits that the Court cannot, by judicial fiat, confer, on the AFT, a power to punish for civil contempt, where the legislature has not thought it fit to do so.

12. The learned ASG has emphasized the fact that the 2012 Bill, which in fact proposed to confer civil contempt powers on the AFT, was withdrawn. The legislative intent, therefore, he submits, is clear, which is that the AFT should not be clothed with the power to punish for contempt in the face of disobedience of the orders passed by it.

13. The learned ASG further submitted that depriving the AFT of the power to punish for civil contempt of itself would not render its orders unenforceable, as the High Court would, under Section 10<sup>14</sup> of

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<sup>14</sup> 10. **Power of High Court to punish contempts of subordinate courts.** – Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice,



the Contempt of Courts Act, 1971, be able to punish any person who contumaciously disobeys an order passed by any judicial or quasi-judicial authority over which it exercises superintending powers, which would include the AFT.

14. Insofar as Rule 25 of the 2008 Rules is concerned, the learned ASG submits that it confers, on the AFT, the power to execute its orders, and not to punish for civil contempt. In any event, submits the learned ASG, a power to punish for contempt cannot be conferred by a Rule. He relies for the purpose, on para 22 of the judgment of the Supreme Court in *Kanwar Singh Saini v. Delhi High Court*<sup>15</sup>. The learned ASG further cites para 23 of *T. Sudhakar Prasad v. Govt of A.P.*<sup>16</sup>

15. The learned ASG particularly draws attention to the following paragraphs of the impugned order which, he submits, are *ex facie* unsustainable in law:

“251. That the rules framed under Section 41 of the AFT Act 2007 in terms of Section 43 of the said enactment are mandatorily required to be placed before each House of Parliament, where it is in session for a period of 30 days after they are made, and thus, the consequential enforcement of the Rules vide the gazetted notification has to be held to be an act of Parliament, and thus, it cannot be contended as sought to be contended by the respondents that the Rules that have been framed as the Armed Forces Tribunal (Procedure) Rules 2008 of which Rule 25 thereof brings forth the non-obstante clause of ensuring unaffected exercise of inherent powers by this Tribunal to make such orders or to give such directions as may be necessary or expedient to give effect to its

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in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code, 1860 (45 of 1860)

<sup>15</sup> (2012) 4 SCC 307

<sup>16</sup> (2001) 1 SCC 516



orders or to prevent abuse of its process or to secure the ends of justice and the AFT (Practice) Rules 2009 which specifically put forth the submission of forms for action to be taken thereunder specifying civil and criminal contempt specifying the aspect of disobedience of orders of the Tribunal as falling within the ambit of contempt,- the contention raised by the respondents that the AFT (Procedure) Rules 2008 and AFT (Practice) Rules 2009 are subordinate legislations and not the Rules formulated by the legislature cannot be accepted in terms of the express content of Sections 41 and 43 of the AFT Act 2007.

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258. Another aspect that cannot be overlooked is that this Tribunal has the trappings of a **Judicial Tribunal** in view of its composition comprising of the Chairperson who has essentially to be a former Supreme Court Judge or a former Chief Justice of the High Court of the country and the Judicial Members till the amendment made by the Tribunals Reforms Act 2021 were all necessarily required to have been a Judge of a High Court and even pursuant to the Tribunal Reforms Act 2021, the eligibility criteria for a person being appointed as a Judicial Member of this Tribunal are coupled with the factum that this Tribunal in terms of Section 14(5) of the AFT Act 2007 is required to decide both questions of law and facts that may be raised before it in relation to all service matters except for exercise of powers by the Hon'ble Supreme Court or a High Court exercising all jurisdiction under Article 226 and Article 227 of the Constitution of India, coupled with the factum that in terms of Section 15 of the AFT Act 2007, this Tribunal is empowered to dispose of appeals against conviction by a court-martial and to substitute the finding of the court-martial, if required, or to remit the sentences or mitigate the punishment awarded or commute such punishment or enhance the sentences awarded by a court-martial, to suspend the sentence of imprisonment, to release the appellant if sentenced to imprisonment on parole with or without conditions, coupled with the factum that this Tribunal also is to hear appeals and pass and substitute its findings if required, inclusive of the punishment, even in relation to a death sentence that may be prescribed in terms of Section 71 (a) of the Army Act 1950 or sentence of death awarded in terms of Section 73 (a) of the Air Force Act 1950 or sentence of death in terms of Section 71 (1) (a) of the Navy Act, 1957, coupled with the factum that the decision of the Tribunal is final in terms of Section 29 of the AFT Act 2007. This Armed Forces Tribunal, which possesses all trappings of a Court with it exercising all powers of the High Courts of the country before transfer of proceedings to the Tribunal on the Armed Forces Tribunal Act 2007 coming into force except for the powers under Article 226



and 227 of the Constitution of India, **this Tribunal has to be held to have powers to punish for contempt of itself of its orders for upholding the majesty and dignity of the institution and for it to be effectively functional.”**

16. The learned ASG submits that the AFT could not have conferred, on itself, status of a court of record. He submits that there are only three Courts of Record, recognized by law – the High Court, the Supreme Court, and the Court of the Judicial Commissioner at Manipur, *vide* Section 14 of the Manipur Courts Act, 1955<sup>17</sup>.

17. The learned ASG further cited para 7 of *State of U.P. v. Roshan Singh*<sup>18</sup>, para 9 of *Niaz Mohammad v. State of Haryana*<sup>19</sup> and paras 43 to 45, 47 and 52 of *Union of India v. Air Commodore N.K. Sharma*<sup>20</sup>.

## II. Submissions of Mr. Rajiv Manglik

18. Responding to the submissions of the learned ASG, Mr. Manglik submits that the AFT is indeed a court of record. He submits that the judgment in *Sudhakar Prasad* dealt with Tribunals under Article 323-A and 323-B of the Constitution of India. He draws attention to the proceedings of the 10<sup>th</sup> Parliamentary Standing Committee for Defence, in which the Minister informed the Parliament that the AFT was a court of record. To support his contention, Mr. Manglik further relies on para 12 of the judgment of the Constitution Bench of the Supreme Court in *Supreme Court Bar*

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<sup>17</sup> The Court of Judicial Commissioner was abolished in 1971 and a common High Court established in 1972.

<sup>18</sup> AIR 2008 SC 1190

<sup>19</sup> (1994) 6 SCC 332

<sup>20</sup> 2023 SCC OnLine SC 1673



*Association v. Union of India*<sup>21</sup> and para 9 of the judgment of the High Court of Kerala in *A. Shihabudeen v. Principal Controller of Defence*.<sup>22</sup>

19. Mr. Manglik further submits that Section 10 of the Contempt of Courts Act would not apply to the AFT, as it is not subordinate to the High Court, which does not exercise supervisory jurisdiction over it. If, therefore, civil contempt power is to be declined to the AFT, he submits that orders passed by the AFT would be rendered unenforceable.

#### D. Analysis

20. Certain basic principles are self-apparent.

#### I. AFT Act and Rules framed thereunder constitute a self-contained code

21. The AFT is a creature of the AFT Act. Its powers and authority stand circumscribed by the AFT Act and the Rules framed thereunder. No power can, therefore, be conferred, on the AFT, which is not traceable to a source to be found in the AFT Act, or the Rules.

22. As this Bench has had an occasion to observe in *Manish Kumar Giri v. Union of India*<sup>23</sup>, the AFT Act is not enacted under Article 323A or Article 323B of the Constitution of India. Article

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<sup>21</sup> (1998) 4 SCC 409

<sup>22</sup> 2010 SCC OnLine Ker 4643

<sup>23</sup> 2025 SCC OnLine Del 6230



323A does not apply because the AFT is not an Administrative Tribunal, and Article 323B does not apply because the subject matter of jurisdiction of the AFT is not one of those enlisted in Article 323B, which are exhaustive.

## II. No power of contempt outside Section 19

23. The AFT has been statutorily conferred the power of contempt, but by Section 19 of the AFT Act. It is clear, to us, that it is not open to any Court, therefore, to confer, on the AFT, any power of contempt *in excess of* that conferred by Section 19. That would clearly amount to judicial legislation, which is impermissible.

24. Significantly, Section 19 does not use the word “civil contempt” or “criminal contempt”. Clearly, therefore, Section 19 is self-contained, apropos the contempt power that vests in the AFT. Where the legislature has deemed it appropriate to circumscribe the contempt power that vests in the AFT by Section 19, the will and mandate of the legislature has to be respected. We are clear, therefore, that there can be no power of contempt, exercisable by the AFT, which is not circumscribed by Section 19.

25. Incidentally, Section 19 is not in challenge.

## III. Would disobedience of an order of the AFT fall within Section 19?

26. Section 19 categorises using of inserting or threatening



language, causing interruption in the proceedings of the AFT and causing disturbance in the proceedings of the AFT as contempt and empowers the AFT to award punishment to the contemnor in such a case.

27. Mere disobedience of an order passed by the AFT, even if contumacious, would clearly not attract the expression “using of any insulting or threatening language”. Which takes us to the question of whether contumacious disobedience of an order would attract the expression “causing any interruption or disturbance in the proceedings of” the AFT.

28. The “proceedings” of the AFT would, in ordinary course, come to an end with the passing of a final order adjudicating a *lis*. Disobedience of a final order passed by the AFT, contumacious or otherwise, cannot, therefore, be regarded as causing interruption or disturbance *in the proceedings of the AFT*.

29. The position may, however, be different if the order is interlocutory in nature, or requires compliance, by one or other party, of directions issued by the AFT, on which the future course of proceedings is dependent to some extent. There may, therefore, conceivably be a situation in which the AFT, at an interlocutory stage of proceedings before it, issues directions, compliance with which is necessary for the proceedings to smoothly continue. If disobedience with such directions, by either party, results in disturbing or causing interruption in the further course of the proceedings before the AFT, and if the disobedience is contumacious, it may well attract Section



19(1) of the AFT Act, and amount to contempt within the meaning of the provision.

**30.** We, therefore, are not in entire agreement with the learned ASG in his contention that disobedience with an order passed by the AFT would not, in any case, constitute contempt within the meaning of Section 19(1) of the AFT Act. If the disobedience is contumacious, and if it interrupts or disturbs further proceedings before the AFT in the manner envisaged hereinabove, it would constitute contempt within the meaning of Section 19(1), and the contemnor would be liable to punishment as envisaged in the said provision.

**31.** Disobedience of a final order passed by the AFT would not, however, attract Section 19, as, with the passing of the final order, the proceedings before the AFT come to an end, and any future disobedience of the said order cannot, therefore, result in interruption or disturbance of the proceedings before the AFT.

#### **IV. Whether Section 10 of the Contempt of Courts Act would apply**

**32.** Section 10 of the Contempt of Courts Act empowers the High Court to punish for contempt of any court *subordinate* to it.

**33.** In its decision in *All India Judges Association v. Union of India*<sup>24</sup>, the Supreme Court has observed thus:

“No longer should this Court refer to the District Judiciary as

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<sup>24</sup> (2024) 1 SCC 546



'subordinate judiciary'. Not only is this a misnomer because the District Judge is not per se subordinate to any other person in the exercise of her jurisdiction but also is disrespectful to the constitutional position of a District Judge. Our Constitution recognizes and protects a District Judge as a vital cog in the judicial system. Respect ought to be accorded to this institution and its contribution to the country.”

34. In a similar vein, the Supreme Court has also clarified, in *Sakhawat v. State of Uttar Pradesh*<sup>25</sup>, that describing a Court as a “lower Court” is “against the ethos of our Constitution”.

35. The use of the word “subordinate”, while referring to any judicial authority who may be lower in the judicial hierarchy to the High Court is, therefore, anachronistic. Section 10 of the Contempt of Courts Act may, therefore, required to be more appropriately reworded. We, however, have to interpret the provision as it stands, gleaning its intent.

36. There is no legal or statutory definition for the expression “subordinate” as employed in Section 10 of the Contempt of Courts Act, perhaps advisedly. Inasmuch as the provision is one which empowers the High Court to ensure, through power of contempt, compliance with orders passed by judicial authorities “subordinate” to it, the ambit of the provision has, clearly, to be as wide as possible. Remedial and beneficial statutes have, it is trite, to be accorded the widest possible interpretation, ensuring, of course, that the statute is not stretched beyond legitimately elastic limits. The Privy Council, in *Sayad Mir Ujmuddin Khan v. Ziaulnisa Begum*<sup>26</sup>, held that, in

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<sup>25</sup> 2025 SCC OnLine SC 1205

<sup>26</sup> (1897) ILR 3 Bom 422 (PC)



construing a remedial statute, the Court ought to give it the “widest operation which its language will permit”, and that the Court has only to ensure that “that the particular case is within the mischief to be remedied and falls within the language of the enactment”. In *Gover’s Re. Coal Economic Gas Co.*<sup>27</sup>, approvingly cited in *In re. Hindu Women’s Right To Property Act*<sup>28</sup>, it was observed that the words of such a statute must be so construed as to “give the most complete remedy which the phraseology will permit”, so as “to secure that the relief contemplated by the statute will not be denied to the class intended to be relieved”<sup>29</sup>. In *Shivaji Dayanu Patil v. Vatschala Uttam More*<sup>30</sup>, the Supreme Court held thus:

“12. It is thus evident that Section 92-A was in the nature of a beneficial legislation enacted with a view to confer the benefit of expeditious payment of a limited amount by way of compensation to the victims of an accident arising out of the use of a motor vehicle on the basis of no fault liability. In the matter of interpretation of a beneficial legislation the approach of the courts is to adopt a construction which advances the beneficent purpose underlying the enactment in preference to a construction which tends to defeat that purpose. The same approach has been adopted by this Court while construing the provisions of the Act.”

37. Section 123(c) of the Railways Act, 1989 defines “untoward accident” to include “accidental falling of a passenger from a train containing passengers”. The Supreme Court, in *Union of India v. Prabhakaran Vijay Kumar*<sup>31</sup>, was seized with the issue of whether a passenger who fell off while boarding the train would be covered by the expression. Recognizing the fact that two interpretations were

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<sup>27</sup> (1875) 1 Ch D 182

<sup>28</sup> AIR 1941 FC 72

<sup>29</sup> Raghuraj Singh v. Hari Kishan, AIR 1944 PC 35, per Lord Atkin

<sup>30</sup> (1991) 3 SCC 530

<sup>31</sup> (2008) 9 SCC 527



possible, the Supreme Court held:

“11. No doubt, it is possible that two interpretations can be given to the expression “accidental falling of a passenger from a train carrying passengers”, the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. *Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the abovementioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred vide Kunal Singh v. Union of India<sup>32</sup>, B.D. Shetty v. Ceat Ltd.<sup>33</sup> and Transport Corpn. of India v. ESI Corpn.<sup>34</sup>*

12. *It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation vide Alembic Chemical Works Co. Ltd. v. Workmen<sup>35</sup>, Jeewanlal Ltd. v. Appellate Authority<sup>36</sup>, Lalappa Lingappa v. Laxmi Vishnu Textile Mills Ltd.<sup>37</sup>, S.M. Nilajkar v. Telecom District Manager<sup>38</sup>.”*

38. Recently, these principles stand reiterated by the Supreme Court in the following passages from *Urmila Dixit v. Sunil Sharan Dixit*<sup>39</sup>:

“8. To answer the issue at hand, it is imperative for this Court to discuss the rules of interpretation to be applied when interpreting a beneficial legislation akin to the Act at hand. While dealing with certain provisions of the Motor Vehicles Act, this Court in *Brahampal v. National Insurance Co.*<sup>40</sup>, observed that a beneficial legislation must receive a liberal construction in

<sup>32</sup> (2003) 4 SCC 524

<sup>33</sup> (2002) 1 SCC 193

<sup>34</sup> (2000) 1 SCC 332

<sup>35</sup> AIR 1961 SC 647

<sup>36</sup> (1984) 4 SCC 356

<sup>37</sup> (1981) 2 SCC 238

<sup>38</sup> (2003) 4 SCC 27

<sup>39</sup> (2025) 2 SCC 787

<sup>40</sup> (2021) 6 SCC 512



consonance with the objectives that the Act concerned seeks to serve.

9. This Court in *K.H. Nazar v. Mathew K. Jacob*<sup>41</sup> reiterated the above expositions and stated that:

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [*Kerala Fishermen's Welfare Fund Board v. Fancy Food*<sup>42</sup>] The Act should receive a liberal construction to promote its objects. [*Bombay Anand Bhavan Restaurant v. ESI Corpn.*<sup>43</sup> and *Union of India v. Prabhakaran Vijaya Kumar*<sup>44</sup>] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. [*Bharat Singh v. New Delhi Tuberculosis Centre*<sup>45</sup>]

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13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and *then a construction that suppresses the problem and advances the remedy should be adopted.* [*Indian Performing Rights Society Ltd. v. Sanjay Dalia*<sup>46</sup>] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. [*Shivram A. Shiroor v. Radhabai Shantram Kowshik*<sup>47</sup>] It was observed in *Shivram A. Shiroor v. Radhabai Shantram Kowshik* that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in *Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council*<sup>48</sup>, Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

(emphasis supplied)

<sup>41</sup> (2020) 14 SCC 126

<sup>42</sup> (1995) 4 SCC 341

<sup>43</sup> (2009) 9 SCC 61

<sup>44</sup> (2008) 9 SCC 527

<sup>45</sup> (1986) 2 SCC 614

<sup>46</sup> (2015) 10 SCC 161

<sup>47</sup> (1984) 1 SCC 588

<sup>48</sup> (2008) 237 CLR 285



10. More recently, in *Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd.*<sup>49</sup>, this Court held the definition of a consumer under the Consumer Protection Act, 1986 to include a company or corporate person in view of the beneficial purpose of the Act.

11. While considering the provisions of the Medical Termination of Pregnancy Act, this Court in *X2 v. State (NCT of Delhi)*<sup>50</sup>, reiterated that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.”

39. Another, wider, manifestation of the same principle, also reflected in *Urmila Dixit (supra)*, is Heydon’s rule of construction of statutes, which ordains that a statute should be interpreted keeping in mind the mischief that the statute seeks to remedy. Further, in *Shailesh Dhairyawan v. Mohan Balkrishna Lulla*<sup>51</sup> and *Richa Mishra v. State of Chhatisgarh*<sup>52</sup>, the Supreme Court has held that, with the passage of time, the principle of purposive interpretation has replaced the principle of literal interpretation of a statute as the “golden rule”.

40. The mischief that Section 10 of the Contempt of Courts Act seeks to address is, clearly, the possibility of orders of “subordinate Courts” being disobeyed, or not complied with. If the “subordinate Court” is not, statutorily, conferred with the power to punish such disobedience in contempt proceedings, the High Court must be able to step in and do so. Else, the possibility of orders and directions of all

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<sup>49</sup> (2024) 7 SCC 140

<sup>50</sup> (2023) 9 SCC 433

<sup>51</sup> (2016) 3 SCC 619

<sup>52</sup> (2016) 4 SCC 179



judicial authorities, over which the High Court exercises superintendence but which have not been conferred independent powers of contempt to punish for disobedience, never being complied with, looms disquietingly large.

41. We have already held that conferment, on the AFT, of the power to punish disobedience of final orders passed by it, disposing of the proceedings, would not attract Section 19. The AFT, therefore, does not possess the power to punish disobedience of a final order passed by it by way of contempt action.

42. In such circumstances, Section 10 of the Contempt of Courts Act *has* to be available, to ensure that decisions of the AFT are respected and implemented.

43. Even if, therefore, *arguendo*, the issue of whether the AFT is, or is not, a “subordinate Court” may be regarded as arguable to some degree, applying the principle enunciated in *Prabhakaran Vijay Kumar*, Section 10 would be required to be liberally and purposively interpreted, with a view to ensuring that the mischief of orders of judicial and quasi-judicial authorities over which the High Court exercises superintendence but which may not be statutorily conferred with the power of civil contempt, remaining uncomplied with, is remedied.

44. We, therefore, are of the view that non-compliance, or disobedience, with a final order passed by the AFT in a *lis* before it would attract the contempt jurisdiction of the High Court under



Section 10 of the Contempt of Courts Act.

V. Is the AFT empowered to punish for disobedience, by either side, of a final order passed by it, disposing of the proceedings? Rule 25 of the 2008 Rules and the decision in *T. Sudhakar Prasad*

45. The answer to this query, to our mind, is to be found in Rule 25 of the 2008 Rules.

46. Rule 25 is not an empowering, or enabling, provision. It does not confer power on the AFT. What it does, positively, however, is to recognise the *existence* of “inherent powers” in the AFT “to make such orders or give such directions as may be necessary or expedient *to give effect to its orders* or... to secure the ends of justice”.

47. Clearly, therefore, the AFT *does possess inherent powers to make orders, or give directions, as may be necessary or expedient to give effect to its orders.*

48. The submission of the learned ASG that no power to punish for contempt, in the face of disobedience of an order passed by the AFT, cannot be conferred by a Rule, is, therefore, clearly beside the point. Rule 25 does not confer any such power. That power inherently vests in the AFT, and Rule 25 merely recognizes this fact.

49. The 2008 Rules commences with the recital that they have been made *by the Central Government* in exercise of the powers conferred



by Section 41(2)(f), (g) and (k)<sup>53</sup>. It is not open, therefore, for the UOI to question the 2008 Rules, or argue that they do not apply. Per sequitur, inasmuch as Rule 25 itself states, in explicit terms, that the AFT *does possess the inherent power* to issue necessary orders or directions to give effect to its orders, the UOI cannot be heard to argue to the contrary. Simply stated, the UOI cannot argue contrary to the wording of the Rule which the UOI itself has enacted.

**50.** The AFT is not, therefore, powerless to pass orders or issue directions to ensure that its orders are implemented. It has inherent power to do so.

**51.** The question is – How far do those powers extend?

**52.** The vesting in inherent powers in an authority flows from the maxim *quando lex aliquid alicui concedit, concedere videtur id sine quo res ipsa esse non potest* which translates to “when the law gives anything to anyone, it also gives all those things without which the thing itself could not exist”.

**53.** The Rule making authority appears to have borrowed the words

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<sup>53</sup> (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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(f) the form in which an application may be made under sub-section (2) of Section 14, the documents and other evidence by which such application shall be accompanied and the fee payable in respect of the filing of such application or for the service of execution of processes;

(g) the other matter which may be prescribed under clause (i) of sub-section (4) of Section 14;

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(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.



in Rule 25 from Section 482<sup>54</sup> of the Code of Criminal Procedure, 1973. In the context of Section 482, the Supreme Court, in *State of Karnataka v. M. Devendrappa*<sup>55</sup>, held thus:

“6. Exercise of power under Section 482 of the Code in a case of this nature is an exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. *It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle quando lex aliquid alicui concedit, concedere videtur id sine quo res ipsa esse non potest (when the law gives a person anything it gives him that without which it cannot exist).* While exercising powers under the section, the Court does not function as a court of appeal or revision. *Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice.* In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise

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<sup>54</sup> 482. **Saving of inherent powers of High Court.** – Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

<sup>55</sup> (2002) 3 SCC 89



serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

54. There can, therefore, be no strict guideline regarding the measures which the AFT could take, in exercise of its jurisdiction under Rule 25. The power to pass orders, or issue directions, as may be necessary to ensure implementation of its orders cannot, however, be disputed, as it is in the nature of a statutory conferment.

55. The learned ASG relied on the decision in *T. Sudhakar Prasad*.

56. *T. Sudhakar Prasad* was concerned with the issue of whether Administrative Tribunals set up under the Administrative Tribunals Act, 1985<sup>56</sup>, possessed the power of civil contempt. Section 17 of the AT Act specifically vests Administrative Tribunals with the power of civil contempt, and the issue before the Supreme Court was only whether, post the decision of the seven Judge Bench of the Supreme Court in *L. Chandra Kumar v. Union of India*<sup>57</sup>, this position had undergone a change.

57. The Supreme Court answered the question in the negative.

58. Inasmuch as the AFT Act does not contain any provision analogous to Section 17 of the AT Act, the controversy in *T. Sudhakar Prasad* is qualitatively different from that before us. Three

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<sup>56</sup> “the AT Act” hereinafter

<sup>57</sup> (1997) 3 SCC 261



observations in *T. Sudhakar Prasad* are, however, of some relevance.

**59.** The first is in para 11 of the report, in which the Supreme Court holds:

“The power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and Tribunals within their respective jurisdictions is also part of the basic structure of the Constitution and a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation is equally to be avoided.”

The High Court, therefore, exercises judicial superintendence over the AFT. However, that would not render the AFT a “Court subordinate to” the High Court within the meaning of Section 10 of the Contempt of Courts Act.

**60.** The second pertinent observation is to be found in para 17 of the report, in which it is held, unequivocally, that Tribunals are not courts of record. The finding, in the impugned order, to the contrary, cannot, therefore, sustain.

**61.** Thirdly, the following penultimate paragraph of the report, which specifically addresses the need for contempt jurisdiction, is instructive:

“22. Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of the judicial system as also of the courts and Tribunals entrusted with the task of administering delivery of justice. Power of contempt has often been invoked, as a step in that direction, for enforcing compliance with orders of courts and punishing for lapses in the matter of compliance. The majesty of judicial institution is to be ensured so that it may not be lowered and the functional utility of the



constitutional edifice is preserved from being rendered ineffective. The proceedings for contempt of court cannot be used merely for executing the decree of the court. However, with a view to preserving the flow of the stream of justice in its unsullied form and in unstinted purity wilful defiance with the mandate of the court is treated to be contemptuous. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent effect on avoidance. Viewed from this angle the validity of Section 17 of the Act is protected not only by sub-clause (b) of clause (2) of Article 323-A but also by sub-clause (g) thereof.”

**62.** Thus, it is settled, in law, that enforceability of orders passed by judicial and quasi-judicial authorities is of the essence. Adjudicatory functions are not exercised by such authorities, normally peopled by persons well-trained in the law, often with years of judicial experience behind them, for a lark. They are adversarial in nature, with rival rights being tested, tried and balanced by deft application of settled legal principles. Decisions taken by judicial, or even quasi-judicial authorities, are not intended to be consigned to oblivion.

**63.** It is, to say the least, startling – rather, shocking – that, on the date when the impugned order was passed by the AFT, 5612 orders passed by it remained to be complied with. This betokens a sorry state of affairs, and we understand and appreciate the concerns which prompted the AFT to hold as it did.

**64.** Para 22 of *T. Sudhakar Prasad* makes it clear that judicial orders have to be enforceable. We do not know the present statistics, but the fact that 5612 orders of the AFT were unenforced makes it clear that, absent any sanction or method of enforcement, personnel of the Armed Forces, who lay down their lives for the country without a



moment's hesitation, can never be certain that, even if they succeed in their litigation in the AFT, any relief would be forthcoming.

65. Which brings us back to the issue of the scope of Rule 25 of the 2008 Rules.

66. We are clear that Rule 25 cannot be construed so expansively as to encompass, within itself, all powers which a court possessed of civil contempt jurisdiction could exercise. Doing so would amount to expanding the scope of contempt jurisdiction of the AFT beyond the boundaries which the legislature chalked out, under Section 19 of the AFT Act. We would, then, be doing, indirectly, via an adventurous interpretation of the Rule, what we could not directly do under the Act. This, clearly, would be impermissible.

67. At the same time, there being no other provision in the AFT Act, or elsewhere, which would ensure that contumacious disobedience of orders passed by the AFT do not go unpunished, it is necessary to interpret Rule 25 as widely as possible.

68. A Division Bench of this Court, in *Prem Kumar Gupta v. Bank of India*<sup>58</sup>, was seized with the issue of interpreting Section 19(25) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993<sup>59</sup>, which is practically *in haec verba* to Rule 25 of the 2008 Rules, and read thus:

“The Tribunal may make such orders and give such directions as

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<sup>58</sup> 2015 SCC OnLine Del 8232

<sup>59</sup> “the RDDBFI Act” hereinafter



may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.”

The Division Bench held thus, in para 29 of the report:

“29. We do not approve of the observations of DRAT that the above noted clause Section 19(25), confers upon the DRT a jurisdiction akin to the one vested in the High Court under Section 482 of the Code of Criminal Procedure. The language employed in the two provisions may be similar but the import thereof cannot be equated. The provision in Section 19(25) may at best be compared with the one contained in Section 151 of the Code of Civil Procedure which saves the “inherent power” of the civil court to secure ends of justice or make orders to prevent abuse of the judicial process. It is trite that such inherent jurisdiction to render justice cannot be taken resort of so as to nullify the other statutory provisions put in position to regulate the procedure. *Where the legislation deals expressly with a particular matter, the provisions so enacted would normally be regarded as exhaustive.*”

**69.** Applying the principle enunciated in the concluding sentence from the above passage, the legislature having vested contempt powers on the AFT by Section 19 of the AFT Act, the provision would normally be regarded as exhaustive of the scope of contempt jurisdiction of the AFT.

**70.** This reinforces our conclusion, *supra*, that no contempt power vests in the AFT, civil or criminal, outside the peripheries of Section 19 of the AFT Act, the scope of which we have already attempted to delineate.

**71.** Given the fact that (i) ensuring enforceability of the orders passed by the AFT is a matter of utmost expediency, which cannot brook compromise, (ii) Section 12 of the Contempt of Courts Act does not empower this Court to punish for civil contempt of the AFT and



(iii) the contempt power vested in the AFT by Section 19 of the AFT Act, we are of the opinion that Rule 25 has to be given its widest scope and amplitude. That said, we are also convinced that no parameters, within which the AFT could act under Rule 25 to ensure compliance with its orders, can be laid down. In the absence of any statutory provision empowering the AFT to incarcerate a recalcitrant officer who refuses to comply with its order, we are sanguine that the AFT cannot do so, as Article 21 of the Constitution of India does not allow deprivation of life and liberty except according to procedure established by law, and “law”, for the purposes of Part III of the Constitution of India, is defined, by Article 13(3)(a), as including “any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law”.

72. Short of incarceration, however, we are of the view that the powers of the AFT, under Rule 25, to issue orders or directions to ensure implementation of its orders, is practically unbridled. They may extend to imposing service sanctions or proceeding against the assets of the officer, among other things. It is however not possible, in the very nature of things, to precisely delineate the extent of the power.

## VI. Re. Article 33 of the Constitution of India

73. The invocation of Article 33 of the Constitution, by the AFT is, in our view, misconceived. The right to move a court in contempt is not a fundamental right. Moreover, it is also settled that there is no inherent power of contempt, and that contempt power has to be



conferred by statute.

**VII. Re. reliance, by the AFT, on the Practice Rules**

74. The use of the words “either Civil or Criminal” in Rule 10(2) of the Practice Rules, quite clearly, cannot be determinative of the issue of whether the AFT can proceed in civil contempt against an officer or authority for disobeying its final order.

**VIII. Re. judgment in *Supreme Court Bar Association***

75. Para 12 of *Supreme Court Bar Association*, on which Mr. Manglik relies to submit that the AFT is a court of record, merely explains what a court of record is. It reads:

“12. A court of record is a court, the records of which are admitted to be of evidentiary value and are not to be questioned when produced before any court. The power that courts of record enjoy to punish for contempt is a part of their inherent jurisdiction and is essential to enable the courts to administer justice according to law in a regular, orderly and effective manner and to uphold the majesty of law and prevent interference in the due administration of justice.”

76. This passage does not, in any way, indicate that the AFT is a court of record. Rather, it has been categorically held, in *T. Sudhakar Prasad*, that Administrative Tribunals are not courts of record. That decision would apply, *mutatis mutandis*, to the AFT.

**IX. Re. judgment of the High Court of Kerala in *A. Shihabudeen***



77. Mr. Manglik relies on para 9 of this decision, which unquestionably supports his stand, and reads:

“9. No doubt, definition clauses of the Contempt of Courts Act and the whole provisions of the said Act as such are not incorporated in the Act herein. However, under Section 19(1), causing any interruption or disturbance in the proceedings of the Tribunal is a contempt, which is made punishable thereunder. Basically, the interruption or disturbance provided therein is physical obstruction affecting the smooth functioning of the Tribunal. We feel, even refusal to enforce the Tribunal's orders could also be brought within the scope of interruption or disturbance of the proceedings of the Tribunal because execution of orders of the Tribunal being the duty of the Tribunal under Section 29 read with Rule 25 quoted above, the proceedings of the Tribunal continue until the orders are executed and implemented. In other words, with the passing of interim orders or final orders the Tribunal is not relieved of the matter, and the proceedings before it continues until the Tribunal executes its orders under Section 29. For this purpose, its inherent powers are retained and it has all the powers to enforce its orders under Sections 29 & 19 read with Rule 25. We do not see any other mechanism to enforce an order except to punish those guilty of non-implementation for contempt. In other words, only on fear of contempt action, the orders of the Tribunal could be enforced. Clauses (ii) & (iii) of the definition of criminal contempt under Section 2(c) of the Contempt of Courts Act cover interference with the due course of any judicial proceedings or obstruction of the administration of justice in any other manner. Non implementation of the orders of the Tribunal that has become final is certainly an obstruction or interference with the course of justice, and so much so is a criminal contempt for which the Tribunal is entitled to initiate prosecution proceedings under Section 19(1) of the Act.”

78. We respectfully express our inability to concur with the reasoning of the High Court of Kerala, as contained in this passage which, we feel, stretches Section 19 of the AFT Act beyond its permissible limits. The observation that “refusal to enforce the Tribunal’s orders could ... be brought within the scope of interruption or disturbance of the proceedings of the Tribunal” cannot, to our mind, sustain, as the proceedings of the Tribunal would come to an



end with the rendition of the final order or judgment in the Original Application filed before it.

**79.** The finding, of the High Court, that the proceedings continue till the order is executed, to our mind, does not flow from the statute. Section 29, which refers to execution of orders of the AFT, only states that the order would be final and would “be executed accordingly”. The AFT does not continue to deal with an OA filed before it till its order is executed. The “proceedings”, therefore, come to an end with the disposal of the OA, and do not continue thereafter.

**80.** Equally, and with respect, we are unable to agree with the observation, in the context of the AFT Act, that “non implementation of the orders of the Tribunal that has become final is certainly an obstruction or interference with the course of justice”. Section 19 does not use the word “obstruction or interference *with the course of justice*”, but reads “interruption or *disturbance in the proceedings of such Tribunal*”. In fact, we find, from the impugned order, that the AFT, too, has, at one point, read Section 19 as referring to obstruction or interference with the course of justice. That would amount to re-writing Section 19, which is impermissible.

**81.** In fact, the characterization, in *A. Shihabudeen*, of non-implementation of orders of the AFT as amounting to criminal contempt effectively effaces the distinction between civil and criminal contempt.

**82.** We, therefore, express our regretful inability to agree with the



decision of the High Court of Kerala in *A. Shihabudeen*, insofar as it deals with the power of the AFT to proceed in contempt for non-implementation of any final order passed by it in the proceedings is concerned.

**83.** Qua interim orders or directions, however, the AFT could invoke Section 19 in an appropriate case, as already held by us earlier in this judgment.

**X. Re. Report of 18<sup>th</sup> Standing Committee on Defence and the fate of the 2012 Amendment Bill**

**84.** We are somewhat surprised at the stand taken by the Defence authorities as recorded in the Report of the 18<sup>th</sup> Standing Committee on Defence, at the time of presentation of 2012 Amendment Bill, on which the learned ASG relied. The submissions of the UOI record that the Vice-Chiefs of the three Forces “emphasized the operational difficulties likely to be faced by the armed services if such power of civil contempt are conferred on the Ld. AFT”.

**85.** This stand, to our mind, is both unreasonable and unsustainable in law. There can be no question of any “operational difficulties” if orders of the AFT are required to be complied with. If the order is unpalatable to the authorities, remedies by way of judicial review are available. The authorities have only two options with them; to obey the order, or challenge it. Conferment of powers of civil contempt is only to ensure enforcement of judicial orders, and it cannot lie in anyone’s mouth to urge that enforcement of judicial orders results in



“operational difficulties”. Such a plea, if accepted, would render our entire judicial edifice powerless.

**86.** We are also not inclined to accord, to the fact that the 2012 Amendment Bill did not go through, more importance than it deserves. We do not know, finally, why it was not tabled. Be that as it may, we have to decide the issue before us on the basis of the existing statutory position. We have humbly attempted to do so.

### **E. Our Conclusions**

**87.** We sum up our conclusions thus:

(i) Section 19 of the AFT Act *does not* empower the AFT to proceed against any person for disobeying a final order or judgment rendered by it, disposing of a *lis*.

(ii) However, if any disobedience, of any interim order or direction issued by the AFT interferes with, or disturbs, further proceedings before it, the AFT can proceed against the officer responsible, by way of contempt action, under Section 19.

(iii) Once the legislature has conferred contempt jurisdiction on the AFT – without categorizing it as “civil” or “criminal” contempt, the AFT cannot be conferred, by judicial fiat, with any additional power of contempt. Section 19 of the AFT Act is, therefore, exhaustive, regarding the power of contempt which the AFT can exercise.



(iv) Disobedience of any final order or judgment of the AFT would, however, attract Section 10 of the Contempt of Courts Act, and be punishable thereunder.

(v) The AFT is, further, empowered, by Rule 25 of the 2008 Rules, to issue all necessary directions or orders to give effect to the orders passed by it, interim as well as final. The AFT cannot, however, deprive any officer, howsoever recalcitrant, of his liberty, in exercise of power under this provision.

#### **F. A passing comment**

**88.** While we have set out, above, the legal position as we see it, we are sanguine that there is no want of compassion, in the executive, for the members of our Armed Forces, and any delay or reluctance in implementing the decisions of the AFT would ordinarily be *bona fide*. We only request the authorities to, if they are aggrieved by any such decision or order, to challenge it in a manner known to law, rather than just leave it unimplemented. The right to challenge a judicial decision is always available, to the citizen as well as the executive. Failure to implement the decision, without challenging it, or, if it is challenged, obtaining any interlocutory or final order impeding its implementation, is completely unacceptable. Our Armed Forces are meant to protect our lives and our borders, and cannot remain embroiled in litigation.



**89.** The writ petition stands disposed of accordingly, with no orders as to costs.

**C. HARI SHANKAR, J**

**OM PRAKASH SHUKLA, J**

**FEBRUARY 23, 2026**

*AR/dsn*