

News

After a transgender person contests termination, the Delhi High Court requests the MoD's position on the AFT's authority to determine the statutes' validity.



Senior Advocate Gautam Narayan was designated as an amicus curiae in the case by a full bench of the High Court.

In a recent case [**Manish Kumar Giri alias Sabi Giri v Union of India & Ors**], the Delhi High Court asked the Defense Ministry for its opinion on whether the Armed Forces Tribunal (AFT) has the authority to rule on the constitutionality of statutes other than the Armed Forces Tribunal Act, 2007.

According to a full bench consisting of Chief Justice Devendra Kumar Upadhyaya, Justices C Hari Shankar and Om Prakash Shukla, the Defense Ministry's position on the issue is crucial because the case's verdict will affect members of the Army, Navy, and Air Force, among other armed forces.

The Court stated, "We clarify that since this matter may have an impact on the personnel of all the Armed Forces, including those of the Army and Air Force as well, aside from the Navy, we provide that the Secretary, Ministry of Defence, Government of India, or any other High-Ranked Officer nominated by him for the said purpose, shall provide the instructions in the matter to learned counsel for the respondents."

Additionally, it designated Senior Advocate Gautam Narayan as the case's amicus curiae.

Additionally, we ask that the parties' knowledgeable attorneys submit their written arguments. The parties will submit a single set of properly paginated decisions, along with the learned Amicus Curiae. The Court mandated that written submissions and the judgment compilation be submitted by November 14, 2025.

On November 28, it will hear the case again.

A Division Bench referred the case to the Full Bench for decision-making on the following issues:

Is the Armed Forces Tribunal able to make decisions about the provisions of statutory laws other than the Armed Forces Tribunals Act, such Section 9 of the Navy Act, which is at issue in this case?

Is the ruling in **Neelam Chahar** to be seen as giving the Armed Forces Tribunal the authority to decide cases involving the validity of statutory laws, such the Navy Act?

Should this interpretation be accepted, would it apply to all tribunals, regardless of whether they were established in accordance with Articles 323A and 323B of the Indian Constitution?

After an Indian Navy officer filed a plea to have the order that had discharged them from service following sex reassignment surgery quashed, the Division Bench formulated these questions.

According to the statement, the petitioner had a sex reassignment surgery and began identifying as female while working. The Court was informed that the Navy subjected the petitioner to numerous medical evaluations and, without any justification, placed him in a psychiatric facility for five months after learning about the procedure.

The petitioner attempted to have the Navy Regulations that led to their termination from service overturned. It was argued that transgender people's identities are not acknowledged by the provisions.

Nonetheless, the Central government argued that the petitioner's removal was due to misconduct because she refrained from maintaining a service-like appearance, had undergone gender reassignment surgery without notifying naval authorities, and had long hair, manicures, and trimmed eyebrows.

The petitioner's eight absences without leave were also noted. The Center argued that the AFT is the court of first instance in these situations and contested the petition's maintainability before the High Court.

The Division Bench sent the questions to the Full Bench after noting that the petitioner's requested relief was in the form of a challenge to the constitutionality of a Navy Act provision.

The petitioner was represented by Senior Advocate **Trideep Pais, Amritananda Chakravorty, Mihir Samson, Shreya Munoth, Sitamsini Cherukumalli, Saloni Ambastha, Sakshi Jain, and Pradip Kumar Singh.**

The Union of India was represented by Additional Solicitor General (ASG) Chetan Sharma, as well as attorneys Piyush Beriwal, Amit Gupta, Vidur Dwivedi, Naman, and Jyotsna Vyas.