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Power of President with respect to army

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Why is in news? President Draupadi Murmu has terminated the services of an Indian Army Major posted with a Strategic Forces Command (SFC) unit.

An Army inquiry had earlier found that the Major was involved in several lapses which comprised national security.

The President, exercising powers conferred by Section 18 of the Army Act, 1950 and Article 310 of the Constitution and all other powers enabling in this behalf, ordered that the services of the Major be terminated with immediate effect.

Section 18 of the Army Act, 1950:

The Army Act, 1950 is a **comprehensive legal code** that governs the **functioning, discipline, and administration** of the Indian Army.

Section 18 of the Army Act pertains to the **"Power to Dismiss Soldiers."**

In essence, it **provides the authority for the dismissal of a soldier by a specified competent authority.**

Tenure of service under the Act - Every person subject to this Act shall **hold office during the pleasure of the President.**

This short but pivotal section confers upon certain high-ranking officials the power to dismiss soldiers from service.

The intent behind such a provision is clear: to ensure that the armed forces, a critical pillar of national security, operate with the highest standards of discipline and integrity.

Any deviation from these standards, especially at the level of an Army officer, can have serious implications for the security and prestige of the nation.

Article 310 of Indian Constitution:

It says **every person in the defence or civil service of the Union** holds office during the **pleasure of the President.**

Every member of the **civil service in the States** holds office during the **pleasure of the Governor.**

Article 311:

It imposes restrictions on the removal of a civil servant.

It provides for civil servants being given a reasonable opportunity for a hearing on the charges against them.

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There is also a provision to dispense with the inquiry if it is not practicable to hold one, or if it is not expedient to do so in the interest of national security.

In practical terms, the pleasure of the President referred to here is that of the Union government, and the Governor's pleasure is that of the State government.

Implications and Significance:

President Draupadi Murmu's decision, backed by the aforementioned legal provisions, underscores a few key points:

Accountability at All Levels: Even high-ranking officers are not exempt from scrutiny and accountability. The armed forces demand a stringent code of conduct, and any deviation can lead to severe repercussions.

Presidential Authority: The President, as the Supreme Commander of the Armed Forces, possesses the final authority in matters of discipline and administration of the armed forces.

National Security: Given that the Major was associated with the SFC – a unit dealing with strategic assets – the dismissal highlights the seriousness with which lapses in security protocols are treated.

Strategic Forces Command:

The SFC is a **tri-Service command** that forms **part of India's Nuclear Command Authority (NCA)**.

It was **created on January 4, 2003** by an executive order of Cabinet Committee on Security (CCS) headed by then Prime Minister Atal Bihari Vajpayee.

Function: It is responsible for the management and administration of the country's **tactical and strategic nuclear weapons stockpile**.

It is headed by a **Commander-in-Chief of the rank of Air Marshal**.

Doctrine of Pleasure:

The pleasure doctrine is a **concept derived from English common law**.

It says is that a civil servant of the Crown holds office **during the pleasure of the Crown**.

This means **his services can be terminated at any time by the Crown, without assigning any reason**.

Position of doctrine of pleasure in India:

Article 310 of the Constitution of India says every person in the defence or civil service of the Union holds office during the pleasure of the President, and every member of the civil service in the States holds office during the pleasure of the Governor.

Article 311 imposes restrictions on the removal of a civil servant.

Article 164, the Chief Minister is appointed by the Governor; and the other Ministers are appointed by the Governor on the CM's advice. It adds that Ministers hold office during the pleasure of the Governor.

Powers conferred on the president – as supreme commander of the defence forces:

The Indian President is the head of the state. He is India's first citizen and a symbol of the country's unity.

The President is the **Supreme Commander of the Indian Armed Forces**.

The President **can declare war or conclude peace**, on the advice of the Union Council of Ministers headed by the Prime Minister.

He can **declare a state of Emergency** on the recommendation of the Council of Ministers after satisfying himself that the country's security or financial stability is in danger.

All Important treaties and contracts are made in the President's name.

Appointment of all officers, including the chiefs of the armed forces

The President has the **power to pardon, respite** any punishment, **and remit or commute** the sentence of any person **convicted of an offence by the court martial**.

Article 72 of the Indian Constitution talks about the pardoning powers of the President.

All those persons can apply for pardon who are convicted of any offence-Where the punishment or sentence is given **by a court-martial**.

A court-martial is a judicial court that adjudicates the offences **committed by armed services' members** against the military law

Where the punishment or sentence is given for an offence related to a matter over which the union has the power to make law; Where a death sentence is awarded to the convict for their offence.

Conclusion:

In conclusion, while the immediate events leading to the Major's dismissal from the SFC unit may be a matter of internal security and discipline, the legal framework supporting such decisions is integral to the governance of the Indian armed forces. It ensures a balance of power, accountability, and upholds the nation's commitment to maintaining the highest standards of professionalism within its defense ranks.