

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH
AT NEW DELHI**

T.A. No.534/2009

[W.P. (C) No.8944/2008 of Delhi High Court]

Major Sumit Sharma

.....Petitioner

Through: Sh.A.N. Tiwari

Versus

Union of India & Others

.....Respondents

Through: Lt Col S.Geroge

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON

HON'BLE LT. GEN. M.L. NAIDU, MEMBER

ORDER
16.12.2009

1. This petition was transferred from Hon'ble Delhi High Court to this Tribunal.

2. By this writ petition, petitioner has prayed to issue a writ of Mandamus, order or direction to the respondents to accept the resignation of the petitioner and relieve him with all benefits as it may be admissible.

3. Brief facts relevant for the disposal of present petition are that petitioner was granted permanent regular commission on 13.05.2000 and dutifully he served 5 out of 8 years of his service in Field area with utmost loyalty and dedication. Petitioner submitted an application for posting on compassionate ground on 18.09.2006 to look after his old sick infirm parents. The said application was rejected by his own unit. Therefore, petitioner submitted an application for resignation on 31.12.2006. It is alleged that on 14.04.2007, the mother of petitioner died due to 'chronic renal failure (2) type with diabetes mellitus and diabetic nephropathy'. The application of petitioner for resignation was rejected by the Army Headquarter vide its letter dated 23.05.2007. He wrote to Director General of Artillery on 26.07.2007 for kind indulgence. Again on 28.11.2007, he wrote application reiterating his request for resignation but without any result. Ultimately, petitioner filed a writ petition on 28.03.2008 before Hon'ble Delhi

High Court in which direction was passed to dispose of the statutory complaint, if filed by petitioner expeditiously. Thereafter, petitioner submitted a statutory complaint but same met with negative result. Therefore, petitioner again approached the Hon'ble Delhi High Court by filing present writ petition requesting for acceptance of his application for resignation on compassionate ground to look after his old sick infirm father and grandmother.

4. Respondents in their reply have pointed out that petitioner is a trained observer in UAV Mark-II System and the Army is short of such trained officer, therefore, request of petitioner cannot be conceded. It is true that if trained people who specialised in particular assignment, are permitted to go out so easily then Army will be sufferer on that count. Army has trained such people for critical assignments and if they lose such trained hands, it will be great loss to the Army. However, in the present time looking to the compassionate ground the present matter requires sympathetic consideration. Therefore, we direct that petitioner's resignation may be reviewed again with in a period of six months and in case the trained hands are available then the resignation of petitioner may be sympathetically

considered for its acceptance. Petition is disposed of with
aforesaid observations. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
December 16, 2009