IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

O.A. No. 423/2010

Maj. Sumit Sharma .....Applicant

Versus

Union of India & Another .....Respondents

For applicant: Sh. A.N. Tiwari, Advocate.

For respondents: Sh. Satya Sahrawat, Advocate, proxy counsel for Ms. Jyoti Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

O R D E R
21.10.2010

1. Applicant by this petition has prayed that respondents may be directed to accept the resignation of the Applicant with immediate effect and relieve him with all the benefits available to him in accordance with law.

2. Applicant was granted permanent commission on 13.05.2000 and he served 7 out of 10 years of service in Field

Area with utmost loyalty and dedication. Applicant submitted an application on 18.09.2006 for compassionate posting to New Delhi to look after his old-aged sick parents. Application was rejected by his own Unit. Applicant being aggrieved submitted a resignation on 31.12.2006. On 14.04.2007 the mother of the applicant died due to Chronic Renal failure with Diabetes Mellitus and Diabetic Nephropathy. On 23.05.2007, Army Headquarters, Army Headquarters rejected his application for resignation. Applicant being dissatisfied with that filed a Writ Petition (C) No. 2649/2008 for disposal of his latest application for resignation dated 28.11.2007. Hon'ble Delhi High Court by its order dated 31.03.2008 directed the respondents to consider the case of the applicant. Then again the Army Headquarters rejected the request of the applicant for release. Thereafter, the applicant again filed Writ Petition before Hon'ble Delhi High Court which was disposed of by Hon'ble High Court on 28.05.2008 with the direction to the respondents to dispose of the statutory complaint of applicant. The statutory complaint was also rejected by the respondents on 03.10.2008. Being aggrieved by this rejection, applicant filed another Writ Petition before Hon'ble Delhi High Court with the prayer that he has been wrongly denied release from the Army.

This petition was transferred to this Tribunal on its formation and this Tribunal disposed of the same on 16.12.2009 and directed the respondents to consider the resignation of applicant within a period of six months and in case the trained hands are available then the resignation of applicant may be sympathetically considered for its acceptance. But that was rejected. Thereafter, applicant filed a petition before this Tribunal on 02.07.2010 wherein we passed the order that *"now the present application has been filed by the applicant on the ground that Government has not accepted his resignation. This is a fresh cause of action. Let the applicant may file the fresh petition challenging the rejection of his request.* Now, applicant has again filed this petition against the rejection of his request.

3. A reply was filed by the respondents and respondents have definitely taken the position that applicant received specialist UAV training as an observer in 2006 for UAV MK-II systems. Subsequent to the said training, applicant is being suitably employed as per the specialisation. It is further submitted that there is an acute shortage of officers in the Regiment of Artillery and the criticality is more profound for specialist officers.

Applicant was duly considered and his application was rejected by the competent authorities. Since applicant is a specialised officer in particular branch and that branch is already running short of officers, therefore, his resignation was rejected. We do not think proper to interfere in this matter as the National interest has higher priority than any other priority. Since his services are indispensable to the Army because of the specialised training, therefore, we are not inclined to interfere in the matter. Petition is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
October 21, 2010.