

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

T.A NO. 201 OF 2010
(WRIT PETITION (C) NO. 2385 OF 2001)

EX. SEP. AJIT KUMAR

... APPELLANT

V.

UNION OF INDIA AND OTHERS

... RESPONDENTS

ADVOCATES

M/S. DEEPAK BHATTACHARYA & K. RAMESH FOR THE APPELLANT

MR. R. BALASUBRAMANIAM

WITH

LT. COL. NAVEEN SHARMA FOR THE RESPONDENTS

CORAM

HON'BLE MR. JUSTICE S.S KULSHRESTA, MEMBER

HON'BLE LT. GEN. S.S DHILLON, MEMBER

J U D G M E N T

16.11.2010

- 1.** The appellant seeks to direct the respondents to compensate him for having been falsely implicated in an offence

under Section 69 of the Army Act read with Section 3(1)(c) of the Official Secrets Act, 1923 and thereby convicting him to undergo rigorous imprisonment for a period of 14 years. According to the appellant, he was not afforded fair opportunity and the GCM arbitrarily held him guilty of the aforesaid charge. The findings caused humiliation and irreparable harm to his reputation. His family members also suffered extreme poverty. In such circumstances, he wants to be compensated for the grave and serious damage, loss and harm to his body, mind, career, property, reputation and dignity by gross violation of his fundamental legal and other statutory rights. The basis of the fresh cause of action for moving this petition has also been highlighted as being based on the judgment of the Delhi High Court in W.P (C) No. 4082 of 1995 filed by other accused persons placed in identical circumstances.

3. The appeal is resisted by the respondents contending, inter alia, that the appellant has already challenged the findings of the GCM before the Jammu & Kashmir and so the present writ petition is not maintainable as it is barred by the principle of res judicata. The judgment dated 21.12.2000 in W.P (C) No. 4082 of 1995 (Ashok

Kumar Rana v. Union of India) was challenged before the Supreme Court in Civil Appeal Nos.2949-2950 of 2001 (**Union of India and others v. Ranbir Singh Rathaur and others**). The Supreme Court allowed the said appeal and the case was remanded to the High Court to decide the maintainability of the writ petition. The Delhi High Court re-heard W.P (C) No. 4082 of 1995 and in effect, the judgment dated 21.12.2000 became non est. Further, the Delhi High Court also re-heard W.P (C) No. 3063 of 1995 and dismissed the same by judgment dated 20.12.2007. Since the judgment of the Delhi High Court in W.P (C) No. 4082 of 1995 dated 21.12.2000 no longer survives, the present appeal would automatically fail.

4. We have dismissed similar cases viz. T.A Nos. 693, 695, 717, 720, 727, 738 and 765 of 2009 vide judgment dated 26.7.2010. This case also is covered by the same decision. Therefore, this appeal is dismissed as not maintainable, on the ground of laches.

(S.S DHILLON)
MEMBER

(S.S KULSHRESTHA)
MEMBER