

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

**T.A NO. 682 OF 2009  
(WRIT PETITION (CIVIL) NO.872 OF 2001)**

**LAC BK PANDEY**

**...APPELLANT**

**V.**

**UNION OF INDIA AND OTHERS**

**...RESPONDENTS**

**ADVOCATES**

**MR. A.C DAVID FOR THE APPELLANT  
MR. AJAI BHALLA FOR THE RESPONDENTS**

**CORAM**

**HON'BLE MR. JUSTICE S.S KULSHRESTHA, MEMBER  
HON'BLE LT. GEN. S.S DHILLON, MEMBER**

**J U D G M E N T**

**24.02.2011**

1. The petitioner preferred W.P (C) No. 872 of 2001 before the Delhi High Court challenging the District Court Martial proceedings, whereby he was found guilty of the offences under Sections 52(c) and 65 of the Indian Air Force Act and sentenced to undergo detention for three

months, to be reduced to the ranks and to be severely reprimanded. Subsequently, on formation of the Armed Forces Tribunal, the writ petition was transferred to this Bench and is being disposed of by this judgment treating it as an appeal under Section 15 of the Armed Forces Tribunal Act 2007.

2. The Appellant had been serving in the Indian Air Force for approximately 14 years with a very clean and successful record till the fateful day of 31.12.1999 when he was issued with a charge sheet, supposedly for four offences under Section 52(c) and 65 of the Indian Air Force Act. In actual fact, there were only two charges, while two were alternate charges. The appellant was tried by a District Court Martial and on 10.2.2000 was found guilty and sentenced to undergo detention for three months, to be reduced to the ranks and to be severely reprimanded. While confirming the finding and sentence of the DCM on 14.3.2000, the confirming authority remitted the unexpired portion of detention.

3. The appellant argued that he was falsely implicated in this case on account of personal bias of the local administration. The appellant argued that the background to the entire incident was that he had earlier

met with a scooter accident and got injured and reported to sick bay for treatment. When he was not being attended to expeditiously, he complained to the Medical Officer, Sqn. Ldr. Sinha, about the delay in his treatment and he was reprimanded by Sqn. Ldr. Sinha who threatened the appellant with dire consequences. For seeking such legitimate and timely medical treatment, he was also admonished by Gp Capt P Khanna. It is on account of this incident that the respondents sought to teach him a lesson by fabricating him in a false case. It was argued that the procedure prescribed for search was not followed when searching his house. The search party did not offer themselves for inspection and neither did any of the independent witness. The case was based entirely on the recovery and if the recovery was doubtful, then the entire case would fall apart. In this instance, the recovered articles from the house were never sealed and neither were they produced before the DCM. There is also dichotomy with regard to where the recovered articles were kept and that the independent witnesses were not present in the room during the search. During court martial, the appellant was not permitted to cross examine the prosecution witnesses in a fair and adequate manner and the material witnesses have not been cited or examined by the DCM. S.K Trading Co at

Pathankot has specifically stated that they did not deal with the paints as were allegedly recovered from his residence. Furthermore, there was no deficiency or shortage of the so called stolen items from the store. When there was no deficiency of any item in the store, then how could he be charged for having stolen these items from the store house? It was also argued that no report had been lodged in this case with the Air Force Police or with the Security Section. Lastly, it was argued that there was grave suspicion on the correctness of the article recovered from the house of the appellant and that the list of recovered articles was not prepared at the spot and was in actual fact, prepared at the Guard Room at a much later time.

3. Before proceeding further, counsel for the respondents brought out that the writ petition itself had no substance, in that the appellant was given three punishments i.e. detention for three months, reduction to the ranks and severe reprimand. While balance of detention had been remitted by the confirming authority while confirming the sentence, the appellant had been re-promoted to the rank of Corporal on 15.9.2000 i.e. within six months of such award by the DCM. Thereafter, the appellant retired on 30.11.2001 in the rank of substantive Corporal on

fulfilling the terms and conditions of his enrolment. Counsel also argued that there is no residual effect of reprimand which now remains i.e. 11 years after the sentencing and 9 years after his retirement. Counsel for the respondents urged that nothing survives in the writ petition for the Tribunal to adjudicate.

4. Learned counsel for the appellant was unable to render any assistance as to what was the specific redress that was now sought from this Tribunal consequent to the arguments of the respondents. Since counsel for the appellant could not render any assistance as to what was now sought to be redressed, it was apparent that there was nothing surviving in the writ petition. Even otherwise, this petition cannot be entertained when the appellant's counsel renders no assistance to the Bench. Reliance may be placed in the case of **Smt. Poonam v. Sumit Tanwar** (AIR 2010 SC 1384). Accordingly, it is dismissed.

**(S.S DHILLON)**  
**MEMBER**

**(S.S KULSHRESTHA)**  
**MEMBER**