

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

20.

O. A. No. 416 of 2010

Recruit Radhe Shyam

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. K. Ramesh, Advocate.

For respondents: Sh. Anil Gautam, Advocate.

CORAM:

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

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

ORDER

10.3.2011

1. The petitioner, by this petition has prayed that the respondents may be directed to call the record from Zonal Recruiting Centre, Bareilly and quash the discharge order dated 18.6.2008 being contrary to Rule 13 of Army Rule, 1954 and also issue directions to reinstate the petitioner expeditiously with consequential benefits to meet the ends of justice.

2. The petitioner was called for the written and physical test on 25.11.2007 which he qualified at Zonal Recruiting Centre, Bareilly for appointment as a Soldier Clerk on 18.1.2008. However, during the course of the training after 10th week of his training, he was supposed to pass Proficiency Aptitude Test (PAT) for becoming a Clerk but he failed in English, which was held on 21.4.2008. Therefore, he could not be appointed as a Clerk and his case was considered for re-mustering but there he was found to be short in height. Therefore, he was discharged from service. In

this context, learned counsel for the petitioner invited our attention to the decision of the Apex Court in the case of Union of India and Ors. Vs. Dipak Kumar Santra (2009) 7 Supreme Court Cases 370 and in that case, their Lordships have held that in such cases, discharge U/O 13(3) is justified. Therefore, in these circumstances, no relief, as such, can be granted to the petitioner in this petition. However, again, when his case was considered for re-mustering, he was found short of height. However, at this point of time, learned counsel for the petitioner submits that the petitioner has acquired sufficient height now and the matter can be considered sympathetically. If that be so, the petitioner can make a representation to the respondents and the matter may be considered again by the respondents for re-mustering of the petitioner if the petitioner has the necessary height and eligible otherwise.

3. With the aforesaid observations, the petition stands disposed of. No orders as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
March 10, 2011