

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI**  
**07.**

**O.A. No. 06 of 2011**

**Ex Nk Manjinder Singh**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner:** Mr. S.M. Dalal, Advocate.

**For respondents:** Mr. J.S. Yadav and Mr. Satya Saharawat, proxy  
counsels for Mr. Ankur Chhibber, counsel for the  
Respondents.

**CORAM:**

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

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

**ORDER**  
**26.03.2012**

1. Petitioner vide this petition has prayed that order dated 04.06.2010 may be quashed being arbitrary, illegal and without jurisdiction and direction may be issued to the respondents to reinstate the petitioner in service with all consequential benefits including pay and allowances and continuity of the service.

2. Petitioner was enrolled in the Indian Army on 13.08.1999. During his service, he was awarded four red ink entries which resulted in his discharge from service on 04.06.2010. Therefore, petitioner filed the present petition seeking quashing of order of discharge. Learned counsel for the petitioner invited our attention to the procedure laid down by Army HQ Policy letter dated 28.12.1988 for removal of an undesirable or inefficient JCO who has been awarded such kind of four red ink entries and submitted that procedure laid down therein has not been followed. He specially challenged the 4<sup>th</sup> red

ink entry awarded to the petitioner on 29.12.2009 i.e. punishment of Severe Reprimand which according to the petitioner was recorded without following Rule 22 of the Army Rules. Therefore, learned counsel for the petitioner submitted that if this entry goes out from the record of the petitioner which has not been validly imposed, then order of discharge dated 04.06.2010 cannot be sustained.

3. Respondents have filed their reply and it is pointed out that the petitioner has incurred four red ink entries and the procedure laid down vide Army HQ Policy letter dated 28.12.1988 has been duly followed. It is further pointed out that as far as fourth red ink entry dated 29.12.2009 is concerned, Rule 22 of the Army Rules was followed. They produced original record before us to show that proper enquiry under Army Rule 22 was conducted and they have rightly levelled the charges against him. It is also pointed out that a show cause notice was issued to the petitioner before taking the action of discharge the petitioner having become undesirable for military service. A reply to the show cause notice was also filed by the petitioner and he pleaded guilty, therefore, there is no illegality has been committed in issuing discharge order dated 04.06.2010 and all due procedure has been followed.

4. Learned counsel for the petitioner submitted that as per procedure laid down in the Army HQ policy dated 28.12.1988, the authorities are supposed to make a preliminary enquiry and then forward the recommendation to the competent authority and competent authority after applying its mind should issue a show cause notice to the delinquent and thereafter an order should be passed to this effect. He further submitted that competent authority in the

present case was Brigade Commander whereas order of discharge has been passed by a Major (Battery Commander) on 04.06.2010 which is in violation of aforesaid policy letter dated 28.12.1988.

5. We have bestowed our best of consideration and gone through the original record. The four red ink entries levelled against the petitioner read as under;

<b>Sec</b>	<b>Offence</b>	<b>Punishment Awarded</b>	<b>Awarded by</b>	<b>Date of Punishment</b>
Army Act Sec 39(b)	OSL	Severe Reprimand and 14 days pay fine	Col P.K. Mishra	16.11.07
Army Act Sec 48(i)	Intoxication	Severe Reprimand and 06 days pay fine	Col P.K. Mishra	25.10.08
Army Act Sec 48(i)	Intoxication	Severe Reprimand and 07 days pay fine	Col P Pachauri	15.10.09
Army Act Sec 63	An act prejudicial to good order and Mil discipline	Severe Reprimand	Col P Pachauri	29.12.09

6. So far as first three red ink entries are concerned, there is no dispute and no issue has been raised by the learned counsel for the petitioner. The charge for awarding fourth red ink entry of severe reprimand awarded on 29.12.2009 against the petitioner is that when he was working as co-driver in a vehicle, two bottles of liquor were found from the vehicle while checking at the gate and an inquiry was conducted under Army Rule 22 and petitioner was given punishment of severe reprimand on 29.12.2009. Two witnesses i.e.

Sub Ranjit Singh and Battery Hav Lakhvinder Singh were examined, however petitioner declined to cross examine these witnesses. He pleaded guilty to the charge.

7. Original record has been produced before us and after perusing the same, we are of the opinion that petitioner has pleaded guilty and he has signed the record to this effect. It is, therefore, wrong to say that no such enquiry was held against fourth red entry awarded to the petitioner. After holding an inquiry, papers were sent to the Brigade Commander and after approval of Brigade Commander, a show cause notice was sent to the petitioner and a reply was sought. Both show cause notice and reply were placed before the Brigade Commander and he approved discharge of the petitioner being undesirable and inefficient for military service. The due procedure was followed in discharging the petitioner which finds mention in the original record.

8. In view of above, we are of the opinion that no illegality has been committed in discharging petitioner as undesirable soldier. Consequently, we do not find any merit in the petition and same is accordingly dismissed. No order as to costs.

**A.K. MATHUR  
(Chairperson)**

**S.S. DHILLON  
(Member)**

**New Delhi  
March 12, 2012  
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