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COURT NO. 2, ARMED FORCES TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

M.A. No.601 of 2012 O.A. No.144 of 2012

IN THE MATTER OF:

Dipankar Dutta

.....Petitioner

VERSUS

Union of India & Ors.

.....Respondents

Dated: 02.11.2012

Present: Counsel for the petitioner.

Mr. Ajai Bhalla, counsel for the respondents.

M.A. No.601/2012

Heard learned counsel for the petitioner. In view of the observations made in the order dated 24.09.2012 itself, O.A. is restored to its original number. M.A. stands allowed and disposed of.

O.A. No.144/2012

O.A. be put up for hearing on 19.12.2012.

M.L. NAIDU  
(Administrative Member)

N.P. GUPTA  
(Judicial Member)

Dated: 02.11.2012

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IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

OA No.144 of 2012

5.

Dipankar Dutta

.....Petitioner

Versus

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.....Respondents

For petitioner: Mr. G.D. Mishra proxy for Mr. Neeraj Gupta, Advocate.

For respondents: Mr. Ajai Bhalla , Advocate

CORAM:

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

HON'BLE AIR MARSHAL J.N. BURMA, MEMBER.

JUDGMENT

26.02.2013

1. The petitioner vide this petition has prayed that the show-cause notice dated 31.01.2012 and speaking order dated 09.03.2012 may be quashed and an enquiry may be instituted against respondents 12 to 14 and appropriate relief may be granted to the petitioner.
2. The petitioner was enrolled as an Airman in the Indian Air Force on 20.12.1986 and has completed the tenure service of 26 years in 2006 and was granted an extension for a period of six years upto 19.12.2012. However, while he was posted at Sirsa, he applied for a leave w.e.f. 28.11.2008 to 15.12.2008. However, the leave was sanctioned but the petitioner was absent from 0730 hrs on 28.11.2008 till 0730 hrs on 15.12.2008 for which he was tried and granted a punishment of *admonition*. Again he absented from 4.07.2011 to 26.07.2011 for which he was awarded the punishment of *severe reprimand*. Thereafter, looking into his personal problems he was transferred from Sirsa to Delhi at his own request. Again he was found absent from duty on 19.12.2011 at 0730 hrs. till he reported back to Section on 28.12.2011 at 1330 hrs. for which he was again awarded the

punishment of *severe reprimand*. Thereafter, again on 30.12.2011, he was charged for absence on various dates i.e. absence without leave on 30.12.2011 at 0730 hrs. and reported back to Section 30.12.2011 at 1300 hrs; absence without leave on 02.01.2012 at 0730 hrs. and reported back to Section on 05.01.2012 at 1630 hrs.; absence without leave on 06.01.2012 at 0730 hrs. and reported back to Section on 1430 hrs; absence without leave on 09.01.2012 at 0730 hrs. and reported back to Section on 09.01.2012 at 1200 hrs; absence without leave on 11.01.2012 at 0730 hrs. and reported back to Section 13.01.2012 at 1400 hrs; absence without leave on 18.01.2012 at 0001 hrs and reported back to Section on 18.01.2012 at 1248 hrs.; absence without leave on 19.01.2012 at 0730 hrs. and reported back to Section on 20.01.2012 at 1400 hrs.; and absence without leave 23.01.2012 at 0730 hrs. and reported back to Section 27.01.2012 at 1335 hrs. For this also he was granted *severe reprimand*. The applicant after having incurred three red ink entries was declared '*potential habitual offender*' and vide letter dated 13.01.2012 he was warned to desist from other acts of indiscipline, as addition of another red ink entry would render him liable for discharge from service under the said policy. But despite warnings, he continued to abstain himself without leave and as such ultimately he earned fourth red ink entry and was given show-cause notice and was discharged on 09.03.2012 which was effective from 04.04.2012. However, before that he applied for voluntary discharge on compassionate grounds on 27.01.2012. But looking to his conduct the authorities felt that it would not be appropriate to accept his voluntary discharge application and they discharged him, exercising the powers under Rule 15(2) (g) (ii) of the Air Force Rules, 1969.

3. A reply was filed by the respondents in detail pointing out the aforesaid shortcomings and having regard to his habitual absentee, we are satisfied that the petitioner has been rightly discharged from the service because the conduct of the petitioner is such that he was not going to make a good and efficient Airman in the Indian Air Force. We do not find any reason to interfere in the matter.

4. Learned Counsel for petitioner submits that pensionary benefits of the petitioner have not been finalized by the respondents. Mr. Ajai Bhalla, learned counsel for respondent submits that certain formalities are to be completed by the petitioner which he has not done. Learned counsel for the petitioner is directed that if any documentary formalities are yet to be completed by the petitioner, the same be completed and respondents are directed to release the pensionary benefits of the petitioner forthwith. The petition is disposed of accordingly. No order as to costs.

**A.K. MATHUR**  
**(CHAIRPERSON)**

**J.N. BURMA**  
**(MEMBER)**

**New Delhi**  
**Dated 26<sup>TH</sup> February , 2013**  
**ns**