

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
09.**

O.A. No. 275 of 2011

Sub OTRP Devendra Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Manoranjan Kumar Singh for Mr. S.S. Pandey,
Advocate.

For respondents: Mr. Mohan Kumar, Advocate.

CORAM:

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

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

ORDER
12.10.2012

1. Twice the Petitioner was given opportunity to file a rejoinder and he was given last opportunity on 27th August 2012 for a period of four weeks to file a rejoinder and it was clearly mentioned that in case he does not file rejoinder, the matter will be heard without rejoinder. Till date Petitioner has not filed a rejoinder. Now the matter has come again and is being taken up for final disposal.

2. Petitioner by this petition has prayed that the relevant records may be called and the warning issued to the Petitioner vide letter dated 19th November 2010 for approaching superior authorities through his representation may be quashed. He has also prayed that the Respondents may be directed to grant all legitimate dues of the Petitioner as mentioned st Para 4.27 alongwith interest @ 12% per annum. He has further prayed that the Respondents may be directed to initiate appropriate action against Respondent No. 4 for improper acts/omissions resulting in denial in legitimate

dues to the Petitioner amounting to a clear case of ill treatment to the subordinate.

3. Petitioner was enrolled in the Army in Corps of EME on 28th April 1988. He was promoted to the rank of Havildar on 15th December 1991, however, he assumed the rank physically in May 1992. With the passage of time, the Petitioner rose to the rank of Naib Subedar with effect from 1st December 2003, however, he assumed the rank physically on 28th April 2004. Thereafter on 12th April 2007 because of medical low category he was discharged from service on administrative order of Respondent No.2 without obtaining recommendation of the Invalidating Medical Board, which was mandatory. Then a batch of petitions was filed in Hon'ble Delhi High Court that the persons cannot be discharged from service on the recommendations of the Release Medical Board as for discharge the proper forum was Invalidating Medical Board. The matter was taken up by the Hon'ble Supreme Court against the judgment of the Hon'ble Delhi High Court and the Hon'ble Supreme Court held that the Army personnel can only be discharged by Invalidating Medical Board and not by Release Medical Board. As a result of the decision of the Hon'ble Supreme Court, large number of persons who were discharged by Release Medical Board sought to be reinstated. Petitioner was one of them. In pursuance of the directions of the Hon'ble Supreme Court, they were all reinstated and consequential benefits were given to them. It appears that the Petitioner's case seems to have been delayed because of the procedural problems. He filed his petition before the Central Government by passing all channels and, therefore, he was also issued a warning.

4. However, now the Respondents in their reply has pointed out that it took some time because of the procedural problems as the Petitioner has to obtain the necessary police verification and other information pertaining to the period when he was not in service and that took a long time. However, now the Petitioner has been already given the benefit of that judgment and he has been restored back in service and given a promotion to the rank of Subedar with retrospective effect from 1st June 2008 with all consequential benefits. They have also detailed all those consequential benefits in para 26 of their reply which reads as under:

"The benefits as applicable to the applicant has been fed for adjustment/adjusted by the Pay Account Office (Other Ranks) EME, Secunderabad are as under:

(a)CILQ: CILQ from 01/06/08 to 31/12/08 is fed for adjustment in 10/2011.

(b)NRA: The same has already been adjusted in 06/2011.

(c)TPTL: TPTL from 01/06/08 to 07/01/09 is fed for adjustment in 10/2011.

(d)TFRGTH: Transfer grant for home town has already been adjusted in 09/2011."

5. However in case any benefit which has been given by the Respondents falls short, according to the Petitioner, then he can make a proper representation to the Respondents and in case he fails to get that benefit, it will be open for the Petitioner to approach this Tribunal again. So far as issuing a 'warning' is concerned, he should have some patience instead of

making all lose remarks in the representation which was unbecoming of a disciplined soldier and as such the warning was well deserved.

6. Hence, in the net result of the above discussion, we dispose of this petition with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
October 12, 2012
dn/pd