

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
10.

O.A. No.365/2011

Sep/GD Rajveer Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.R. Kalkal, Advocate

For respondents: Mr. S.P. Sharma proxy for Mr. Ashiwini
Bhardwaj, Advocate

CORAM:

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

HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

ORDER

05.09.2012

1. The petitioner vide this petition has prayed that respondents be directed to absorb the applicant in the category of Soldier/GD in Group 'Y' by condoning the condition as required under the existing policy for condonation of age limit or may be re-mustered as Clerk/GD for which age limit for enrolment in the Army is more than soldier/GD and also direct the respondents to refund the amount of Rs.44,727/- deducted from the pay of applicant with 12% interest.

2. The petitioner was enrolled in the Army on 08.07.1999 as a Soldier/washerman and was sent for training for 36 weeks at Mahar Regiment Centre at Saugor and passed the same successfully. Thereafter, he joined 5 Mahar Regiment on 13.05.2000. He continued to serve there and participated in all operations wherever the Mahar Regiment was sent as a soldier/GD. He further passed the Class II and I trade test of 'Y' Group in 2002 and 2003. He

was also detailed for a driving trade and was granted driving licence on 14.01.2004. But unfortunately this mistake was detected somewhere in 2005 by the Record Office that the petitioner has been wrongly treated as a GD soldier whereas he has been recruited initially for a washerman. Since this mistake was detected, the whole process was redone and petitioner was sent back as washerman and all his Class I and II trade tests passed by him were cancelled and a sum of Rs.44,727/- was deducted towards difference of the salary, without issuing any show cause notice.

3. Thereafter, the petitioner filed a representation and approached through the unit. The unit also recommended that the petitioner has served for more than six years and passed his trade test II & I of Group 'Y' and was attested also in 'Y' Group as soldier/GD and requested to regularise the petitioner as soldier/GD. But this recommendation was not accepted by the higher authorities and he was treated by them in Group 'Z' i.e. trade man category. After that the petitioner had filed the present petition in this Tribunal with the aforesaid reliefs.

4. A reply has been filed by the respondents and respondents pointed out from the reference to the various documents that the petitioner has been recruited as a washerman. There is no doubt about it from the perusal of the various documents which has been placed by the respondents before us that the petitioner was initially recruited as a washerman. But it appears that due to some mistake at some level, he was permitted to go for a full training which is meant for the soldier/GD of Group 'Y'. The persons belonging to the Group 'Z'

are only required to undergo 19 weeks training and the persons of Group 'Y' i.e. soldier/GD has to undergo a training of 36 weeks. The petitioner has undergone a training of 36 weeks and then he was attested to 5 Mahar Regiment and he worked there from 2000 to 2005 till this mistake was detected by the Record Office. As soon as the mistake was detected at the Record Office, the whole reversal process started. Meanwhile the petitioner has been performing the duties of soldier/GD right from 2000 to 2005 and also passed the necessary Class I and II technical trade tests as a soldier/GD.

5. It was also pointed out by the respondents that at the time when he was initially recruited, he was overage by one month; therefore, he could not have been recruited as a soldier/GD.

6. We accept without any reservation that petitioner was inducted in the service as a washerman but by some mistake at some level, he has been permitted to undergo the training of soldier/GD and then he worked as a soldier/GD. Therefore, it was not fair to send back the man back to the trade of washerman after the expiry of 5-6 years. The man has already undergone the necessary training of a soldier/GD and has also acquired the other requisites for a soldier/GD. Reversal of the petitioner at this stage from Group 'Y' to Group 'Z' would be harsh and unfair irrespective of fact that no show cause notice was given to him. He has taken part in all operations of Mahar Regiment like other soldiers. He would have been recruited as a GD Soldier in 'Y' category but for the fact that he was overage by one month. The petitioner has

all requisite qualification and undergone training like other GD Soldier for 36 weeks. Therefore, he does not lack in any manner.

7. Consequently, we set aside all the orders relating to reversal of the petitioner from Group 'Y' to Group 'Z' and direct that the petitioner be treated as a soldier/GD instead of washerman and whatever amounts which have been deducted from his salary i.e. Rs.44,727/- be returned back to him. The petition stands allowed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
September 05, 2012

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