

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

OA No.365/2012

Hav. (DS) Rabindra Kumar Pandey

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. G.D. Mishra, Advocate.
For respondents: Mr. J.K. Sethi, Advocate

CORAM:

HON'BLE MR. JUSTICE N.P. GUPTA, JUDICIAL MEMBER.
HON'BLE LT. GEN. M.L. NAIDU, ADMINISTRATIVE MEMBER.

ORDER
29.10.2012

1. Heard learned counsel for the petitioner at length. The petitioner seeks to challenge his discharge order dated 23.08.2011 and has also claimed reinstatement with consequential benefits.
2. The facts given out by the petitioner are that he was enrolled on 28.08.1995. Due to certain arbitrary actions of the respondents in relation to his frequent postings, the petitioner evinced interest to seek discharge from service and while shuttling between one unit to another, he abandoned the idea of seeking discharge in the month of April 2011. But he was not permitted to withdraw that application. He then submitted another application in November 2011 to cancel his name from the list and allow him to continue in service, but was not replied and instead he was ordered to report to Depot for discharge drill and was discharged on 05.02.2012. According to para 4.6, the petitioner again protested against the action vide letter dated 18.02.2012 to which he received response dated 25.02.2012 and 28.02.2012 intimating that 137 Medium Regiment vide letter dated 27.02.2012 has intimated that his case was not recommended by the unit petition committee, CO and

subsequently not sanctioned by the competent authority i.e., Commander 340(I) Mech Bde who is competent to cancel the discharge.

3. In our view, all said and done the things stood concluded by the end of February 2012, while the present OA has been filed only on 19.10.2012, and the pleadings taken by the petitioner, with regard to limitation are contained in Para 3 to the effect that he received information in the month of September 2011, through which he came to know that he has been discharged vide order dated 23.08.2011, which came to him as a shocking surprise; in as much as, he was earlier informed that the application for premature discharge was rejected and he is unlikely to be discharged. Thus, cause of action arose to him on 23.08.2011 and as such the OA is claimed to be within limitation as prescribed by Section 22.

4. Suffice it to say that apart from being not within limitation from 23.08.2011, it is not within limitation even if calculated from the end of February 2012.

5. In such circumstances, the OA is dismissed as time barred.

M.L. NAIDU
(ADMINISTRATIVE MEMBER)

N.P. GUPTA
(JUDICIAL MEMBER)

New Delhi
October 29, 2012
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