

#7

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

**O.A. No.44 of 2012**

**IN THE MATTER OF:**

**Ex. Sep. Dharam Pal Singh**

**.....Petitioner**

**VERSUS**

**Union of India & Anr.**

**.....Respondents**

**Dated: 18.09.2012**

Present: Mr. Arun Nishchal, counsel for the petitioner.  
Mr. J.S. Yadav, counsel for the respondents.

Heard learned counsel for the parties.

The petitioner, by this petition, seeks to challenge the order dated 23.03.2010, whereby he has been discharged. According to the petitioner's averments he was enrolled in 132 Infantry Battalion (TA) Eco Rajput on 15.11.2008 in the trade of Black Smith. On 10.03.2010 he was served with the show cause notice to be discharged from service on the reasons given therein. This show cause notice is produced as Annexure A-2, whereby he was granted time upto 20.03.2010 to file reply, but according to the petitioner due to tremendous mental pressure, he could not reply to the show cause notice in time and has been discharged on 23.03.2010, invoking the provisions of Rule 14(b)(iii) read with Rule 15(1) of T.A. Act, 1948. Then on 26.03.2010 the wife of the petitioner made representation to the respondent organisation (Annexure A-4), which was turned down vide letter dated 23.04.2010 (Annexure A-5). Then on 25.04.2010 wife

of the petitioner made another representation (Annexure A-6), however, it was on 16.06.2011 the petitioner was informed that he should remain in touch with the nearest battalion/unit to attend the forthcoming rallies for fresh enrolment in T.A. (Annexure A-7).

The present O.A. has been filed on 01.02.2012. Obviously, it is barred by time on the face of it.

The petitioner has filed an application seeking condonation of delay and the grounds mentioned therein are that he could not file the instant O.A. in time due to family discord and due to poor financial condition. The petitioner assumes the delay to be of 47 days.

The sequence of things, as pleaded in the petition, being about his wife promptly submitting representation against the discharge more than once negatives the theory of existence of any family discord.

So far as poor financial condition is concerned, with the enactment of Legal Services Authority Act, it no more remains a ground available with the petitioner for seeking condonation of delay.

Then the petitioner assumes the delay to be 47 days only. Perhaps he means to take Annexure A-7 to be the starting point of limitation, while a look at Annexure A-7, being dated 16.06.2011, shows that it has nothing to do with the discharge, rather it only advises him to keep track of the next date of recruitment, obviously, as a fresh recruit. So far as the discharge aspect is concerned, that rested in the realm of a closed chapter with Annexure A-5 being dated 23.04.2010. Apart from the fact

that the petitioner himself never represented against the discharge nor did he ever seek any remedy against the discharge, even whatever representation was made by his wife that also was turned down vide Annexure A-5.

In that view of the matter, the period of limitation is required to be taken to start, in any case, from the date of Annexure A-5 and, if any, condonation of delay is required to be sought, the delay from that period is to be explained, for which there is no explanation whatsoever.

In that view of the matter, we do not find any ground to condone the delay.

As a necessary consequence, the petition is barred by time and is, therefore, dismissed.

**M.L. NAIDU**  
**(Administrative Member)**

**N.P. GUPTA**  
**(Judicial Member)**

**Dated: 18.09.2012**  
rsk