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**COURT NO. 2, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
O.A. No.482 of 2011**

IN THE MATTER OF:

LAC JAI BHAGWAN

.....PETITIONER

Through: Mr. J.S. Mann, counsel for the applicant

Vs.

UNION OF INDIA AND OTHERS

.....RESPONDENTS

Through: Mr. Ankur Chibber, counsel for the respondents

CORAM:

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

ORDER

Date: 09.10.2012

1. This petition has been filed by the petitioner seeking to challenge the discharge order on the ground of having incurred four red ink entries. Incurring of entries is not a disputed fact, inasmuch, as in para 4.5 the petitioner has himself listed all the four entries being red ink entries incurred by him. The first being dated 22.06.2010, the second being dated 04.08.2010, third being dated 20.09.2010 and the fourth being dated 09.11.2010. The contention of the petitioner, as raised in the petition, is that the petitioner has tried to justify the reasons for being held up by circumstances, which resulted his being awarded the above entries. Then, the allegation is made that the entries were illegally

awarded, inasmuch, as without following proper procedure or trial, he was inflicted punishment which tantamounted to red ink entries. Thus, in substance he has sought to assail the sustainability of those punishments, which constituted red ink entries. Then, the other ground raised is, that he had rendered a very short period of service, inasmuch, as he was enrolled on 27.06.2006 only and was distressed by domestic problems, and therefore, he could have been given further opportunity to serve, instead of being discharged, so as to enable the respondents to gain out of valuable military experience earned by the petitioner.

2. The respondents have filed reply, supporting the action and contending that in these proceedings, seeking to challenge the discharge, the sustainability of the punishments awarded to the petitioner, from time to time, which constituted red ink entries, cannot be allowed to be assailed, as they have not been assailed at the appropriate time. Then, the domestic problems projected by the petitioner have also been contested on facts also, inasmuch, as according to the petitioner, as pleaded in para 4.5 that he married on 24.03.2010 and unfortunately, immediately thereafter he had family problems i.e. matrimonial dispute with the wife, the mother suffered from old age ailment, while his father had expired 17 years ago, and that the younger brother was not having concentration towards his studies, due to family problems; the respondents have contested by taking the stand, that the petitioner had never brought out anything regarding his matrimonial dispute, nor did he ever apply for any leave

on that count, rather he has never produced any document with the department about his having, at all, married, much less did he seek permission for getting married, rather he himself admitted in his personal application for posting on compassionate grounds, that his marriage could not be solemnised due to some domestic problems, and social pressure. Copy of that application has been produced on record as Annexure R-1. Various other grounds have also been taken, including that, in the reply to the show cause notice he had accepted the punishment awarded to him, and had only pleaded, that the punishments were not according to the gravity of the offence.

3. We have heard learned counsel for either side, and have gone through the record.

4. In our view, in view of the judgment of Delhi High Court dated 02.07.2012, passed in W.P.(C) No.5747/2011 in "***Om Lat Vs. Union of India & Ors.***", in these proceedings the petitioner cannot be allowed to challenge the correctness or sustainability of the punishments awarded to him, which constituted red ink entries. The Division Bench in para 21 had clearly held that "*As far as the red ink entries given to the petitioner is concerned, they were not challenged by the petitioner and if that be so, then the petitioner could not challenge the earlier punishments awarded to him on account of the red ink entries given to him for taking the action under Rule 13 of the Army Rules.....*".

5. Apart from this, so far the other aspects raised by the petitioner are concerned, they all stand answered by this Bench in the judgment rendered in O.A. No.117/2010 "**Ex. Gnr. Satish Kumar Vs. Union of India & Ors.**" decided on 03.07.2012, the judgment of the regional Bench, Chandigarh passed in T.A. No.355/2010 "**Jasbir Singh Vs. Union of India**" (January, 2011) and yet another judgment of regional Bench, Chandigarh dated 29.09.2010 passed in T.A. No.94/2009 "**Jagdish Singh Vs. Union of India**".

6. Following the aforesaid judgments, we do not find any ground to interfere in favour of the petitioner. The petition, thus, has no force and is dismissed.

M.L. NAIDU
(Administrative Member)

N.P. GUPTA
(Judicial Member)

Dated: 09.10.2012
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