

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

14.

T.A. No.07 of 2012

O.A. No.217/2011 of AFT Jaipur Bench

Maj. Saurabh Saharan

.....Petitioners

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.S. Pandey, Advocate.

For respondents: Mr. Anil Gautam, Advocate.

CORAM:

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

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

ORDER

22.08.2012

1. This petitioner was filed before the Jaipur Bench. Since the said Bench is not functioning this petition has been entertained by this Principal Bench.

2. The petitioner, by this petition, has prayed that respondents may be directed to set aside the order dated 24.08.2011 by which the petitioner was proceeded against initiating disciplinary action against the petitioner under Army Rule 22 instead of holding a fair and impartial investigation where all opportunity would be available to the petitioner to vindicate his position. He also prayed for ordering an investigation into the two illegal arrests carried out against him including his illegal imprisonment for 09 days constituting a serious offence under Army Act Sec. 50. He also prayed for the direction to respondents to take action against the Presiding Officer, Members and

process officers of the vitiated Court of Inquiry which was found to be tempered with and falsified amounting to serious offence under Army Act Section 57. He also prayed for directions to respondents to cancel attachment under Army Instruction 30/86 and DV ban imposed on the petitioner.

3. The petitioner is facing a Court martial at Jaipur and the trial has already begun and out of 17 witnesses, 13 witnesses have already been examined and the cross-examination of witness PW-4 has taken considerably long time. Learned counsel for the respondents submits that they will produce all the four witnesses within two weeks after the completion of the cross-examination of the PW-4. It will be open for the petitioner to produce his witnesses, which according to the petitioner are 9 witnesses. The whole trial should be concluded as far as possible, preferably within a period of two months. Learned counsel for the petitioner also pointed out that there are certain orders passed by Court Martial proceedings, which he has not challenged under Section 164, but he will file appropriate petition challenging these orders. It is open to the petitioner to file such petition before the competent authority and the competent authority shall decide the matter expeditiously soon after the filing of the petition, in accordance with law. All other grounds taken by the petitioner in this petition will be available to him in case he challenges the final order passed by the competent authority.

4. We hope and trust that the authorities will look into the matter and dispose of the same expeditiously. The petitioner is also directed to cooperate with the completion of the Court martial.

5. T.A. stands disposed of.

6. Dasti.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
August 22, 2012
rsk