

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
20.

T. A. No. 420 of 2003
Writ Petition (Civil) No. 7523 of 2009

Bahadur Ram

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Ms. Shashi Kiran, Advocate.
For respondents: Mr. Ankur Chhibber, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
13.08.2012

1. This writ petition was filed by the petitioner before the Hon'ble High Court and it was transferred to this Tribunal after its formation.
2. Petitioner vide this petition has prayed to quash the order of his release from service dated 07.09.2007 which is against the principals of natural justice. It is also prayed that respondents be directed to reinstate the petitioner with full back salaries from the date of release and also to pay compensation.
3. Petitioner was enrolled in the Army on 06.10.1983. On completion of his basic military training, he was posted to Kumaon Scouts w.e.f. 03.02.1986 and was promoted to the rank of Havildar on 01.12.2001. He was given two opportunities to attend promotion cadre for Havildar to Naib Subedar conducted at his unit from 12.06.2006 to 23.07.2006 and 01.05.2007 to 11.06.2007 but he could not qualify the same on both the occasions. Petitioner started consuming excessive alcohol, therefore, he was examined

by the medical authorities at 161 Military Hospital and Military Hospital Bareilly downgraded him in low medical category S-3 (T-24) w.e.f. 13.07.2007 as a case of "Alcohol Dependence Syndrome". Finally, he was discharged from service under Army Rule 13 (3) (III) (iii) w.e.f. 05.12.2007.

4. Respondents have filed their reply and they have taken the stand that petitioner was downgraded in low medical category S-3 (T-24) w.e.f. 13.07.2007 as a case of "Alcohol Dependence Syndrome". In the summary and opinion dated 12.10.2007 with AFMSG-16, Lt Col D Vivekanand, Classified Specialist Anesthesiology and Colonel N.L. Dinker, Classified Specialist (Psychiatry) considered the petitioner unfit for further military service being a case of "Alcohol Dependence Syndrome". Petitioner was transferred to 161 Military Hospital for holding Invaliding Medical Board where the process of Invaliding Medical Board took place on 31.10.2007 and the AFMSF-16 (Medical Board Proceedings) were completed and the same was approved by DADH of Headquarters, Uttar Pradesh Area, Bareilly on 15.11.2007. Finally, petitioner was discharged from service under Army Rule 13 (3) (III) (iii) w.e.f. 05.12.2007.

5. We have heard both the parties and gone through the record.

6. The contention of learned counsel for the petitioner that petitioner was never subjected to Invaliding Medical Board appears to be wrong. Respondents in paragraph no. 3 of their reply has detailed that petitioner was sent to Invaliding Medical Board as a case of "Alcohol Dependence Syndrome" and medical board has recommended him to be invalided out from service in low medical category S-5. In support of this, learned counsel for the respondents has produced before us the original medical board proceedings dated 31.10.2007 in which there is clear finding that petitioner is a medical

category S-5 and consequently he was discharged from service. Therefore, contention of learned counsel for the petitioner that petitioner was never sent to Invaliding Medical Board is not correct. Petitioner was brought before Invaliding Medical Board which found him unfit to retain in service and downgraded him as LMC S-5, therefore, he was discharged from service.

7. Consequently, we do not find any merit in the petition. Same is accordingly dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
August 13, 2012
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