

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

21.

T. A. No. 495 of 2009

Writ Petition (Civil) No. 3026 of 1999

Ex. CPL Hari Om Malik

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. J. S. Mann, 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

13.02.2012

1. Petitioner by this petition has prayed that the impugned order dated 4th May 1999 passed by Respondent No.2 may be quashed after declaration to the effect that punishments dated 12th January 1993, 25th May 1993, 21st July 1993 and 7th September 1993 as illegal, unjust and not commensurate with the alleged misconduct. It is also prayed that he may be reinstated in service and may be granted all consequential benefits.

2. Petitioner was enrolled in the Air Force as an Airman on 16th May 1985 and was allotted his service number as 700436-B. It is submitted that the Petitioner completed his initial training and thereafter he was serving in HQ MAO, IAF in the year 1991. The Petitioner was serving in that unit and was punished by the Commanding Officer on five occasions and he has given the details namely that on 31st July 1991 he was awarded severe reprimand for

absenting himself from place of duty when detailed to proceed to AF Station Bombay for enquiring about cleaning material. Neither he returned to HQ MAO nor informed telephonically about his whereabouts. He also made a false statement in obtaining liquor from canteen and handing over the same to unauthorised persons. He was also awarded reprimand on 12th January 1993 as he failed to report on duty after sick report was over at 0915 hours on 6th January 1993. Then on 25th May 1993 he was awarded severe reprimand for overstaying leave granted to him from 0001 hours on 8th May 1993 till he reported to sub-guard room at 1600 hours on 16th May 1993 i.e. total absence of 08 days 15 hours and 59 minutes. He was further severe reprimanded on 21st July 1993 as he failed to carry out security duty on 6th July 1993 at about 1330 hours. Then again on 7th September 1993 he was awarded severe reprimand for overstaying leave granted to him from 0001 hours on 16th August 1993 till he reported to sub-guard room on 22nd August 1993 at 1400 hours i.e. total absence of 06 days 13 hours and 59 minutes. Petitioner was also given a warning on 22nd July 1993 and it was clearly mentioned in the warning that you have already earned three red-ink entries and in case you commit another delinquency then you are likely to be discharged from service. The petitioner denied to have received this warning but we have called the original one and find that it bears the signature of the Petitioner. Then Petitioner was given a show cause notice on 25th October 1993 in which all these delinquencies were pointed out but he did not file any reply to so-called delinquencies. Thereafter he was discharged from service under Rule 15(2)(g)(ii) of Air Force Rules 1969.

3. Learned counsel for the Petitioner submitted that in fact all this has been done on account of malafide of one officer Mr. Fernandes because he was asked to deliver one carpet at Taj Hotel, New Delhi and he delivered the same but it was found lost. Therefore Mr. Fernandes malafidely done all this. Mr. Fernandes is not a party before us and therefore it is very easy to make an allegation against him because he has taken the action against the petitioner. These malafide allegations by the Petitioner against Mr. Fernandes are bereft of any truth and more so the Petitioner has not made Mr. Fernandes as a party. Therefore we cannot look into these allegations. There is no doubt that the Petitioner has earned four red-ink entries and that is more than evident and he has not filed a reply to the show cause notice served upon him. In these circumstances, we do not find any merit in this petition and same is dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
February 13, 2012
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