

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A No. 1636/2021 with MA 1587/2021

**NC(E) Abhay Pratap Singh
Versus.
Union of India and Ors.**

..... Applicant

.....Respondents

**For Applicant : Shri Praveen Kumar, Advocate
For Respondents : Shri Neeraj, Sr. CGSC**

CORAM

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)**

ORDER

MA 1587/2021

Keeping in view the averments made in the miscellaneous application and finding the same to be bona fide, in the light of the decision in **Union of India and others v. Tarsem Singh** (2008) 8 SCC 648, the same is allowed condoning the delay in filing the O.A.

2. MA stands disposed of.

OA 1637/2021

3. This application has been filed under Section 14 of the AFT Act, 2007 by the applicant who is a retired NC(E) of the Indian Air

Force and is aggrieved by not being reinstated into service having taken premature retirement earlier due to certain personal compulsions. The applicant has made the following prayers:

- (a) Call for the service as well as medical records.
- (b) Quash and set aside the impugned letters dated 03.06.2021, 20.09.2016 and 07.09.2016. .
- (c) Direct respondents to cancel his discharge order and re-instate him in service with immediate effect.

Brief Facts of the Case

4. The applicant, a graduate, got enrolled in Indian Air Force as a NC(E) on 07.02.2013 in the trade of cook. It is the applicant's case that he was de-motivated by his superiors to continue in service and he therefore applied for discharge on compassionate grounds in Jun 2016 (Annexure-3 (colly) page 26). The discharge was accordingly sanctioned vide HQ EAC letter dated 24.08.2016 (Annexure A-1 (colly) page 25). Subsequently in 2021, the applicant filed a representation dated 03.03.2021 through his counsel (Annexure A-2). In his application, he prayed that due to continuing unemployment, his discharge be reviewed and that he be reinstated. This was replied to by the respondents vide their

letter dated 03.06.2021 (Annexure A-1/page24), the impugned order. Aggrieved by not being reinstated, this OA has been filed.

5. The counsel for the applicant took us through the details of the case and elaborated that though being a graduate, the applicant had enrolled as a cook. He further added that in Jun 2016, the applicant had applied for discharge on compassionate grounds as he was unable to adjust to the job and discharge his duties as a cook since he felt that the job was below his status and educational qualification. The counsel then drew our attention to discharge slip (Annexure A-5) regarding the psychiatric evaluation that the applicant underwent at 158 BH where he was admitted on 25.08.2010 as a case of anxiety, demotivation to continue in service and not being satisfied with his job. However, the evaluation found nothing abnormal and the applicant was discharged on 04.09.2016 in medical category A4G1. Considering the circumstances of the applicant and being jobless, the counsel prayed that applicant's discharge be reviewed and he be reinstated as prayed for.

6. The counsel for the respondents took us through the details and stated that the applicant had been discharged under the

provisions of Chapter III, Rule 15 Clause 2(1) of Air Force Rules, 1969 at his own request before fulfilling the conditions of his enrolment. The counsel asserted that the applicant had voluntarily submitted an application seeking premature discharge on compassionate grounds and that the application was examined; discharge approved, and the applicant was discharged on 20.09.2016. The counsel further elaborated that as a graduate, he was married to a post graduate girl and there was pressure from his family on his work as a cook and that this prompted him to seek discharge. Referring to the plea of psychiatric treatment, the counsel stated that the evaluation had concluded that nothing abnormal had been detected and thus the applicant had been discharged back to his unit in medical category A4G1. The counsel emphasised that the OA be dismissed as the applicant has no grounds to seek reinstatement once he has been discharged from service on his own request in September, 2016.

7. Having heard both the parties, there is no dispute that the applicant had voluntarily sought premature discharge on

compassionate grounds. His application dated 03.06.2016 is reproduced below:

"No.7827849-T NC(E) AP Singh Cook

46WEU AF
C/o 20 Wg AF
C/o 99 APO
03 Jun 16

Commanding Officer
46 WEU AF
C/o 99 APO

DISCHARGE FROM SERVICE ON COMPASSIONATE GROUNDS

Sir,

1. I have the honour to state the following few lines for your sympathetic consideration and favourable action.

- (a) I was enrolled in IAF on 07 Feb 12 and presently held on the posted strength of this Unit wef 25 Apr 16.
- (b) My family consists of my parents, an elder brother sister and wife. My mother is home maker and father is a government employee in revenue department of UP Govt. My wife is post graduate in Science and working as Lab Technician in Delhi. I am also a graduate in science.
- (c) Due to insufficient knowledge of trade duties and status of NC(E) in IAF, I joined this organisation. Since my enrolment, I am trying to adjust myself with nature of job and other service circumstances, but I am unable to adjust myself till date. Now my family is aware of all the circumstances and now they are pressing hard to seek discharge from service.
- (d) I got married on 26 Feb 16 and my wife is also compelling me to seek discharge from service and she is not agreed to stay with me till I am in this job. I am afraid that if I do not obtain discharge from service, the issue may lead to break of our relation.
- (e) Further, I would like to add that my parents and in-laws are financially well off and I am under tremendous pressure due to this. To enhance my status in service, I had applied for selection as airman at many times but I could not succeed to clear the selection test. Due to abovementioned reasons and circumstances, I have no other option than to seek discharge from service with immediate effect.

3. In view of the above facts, I humbly request that a case may please be taken up with higher authorities for discharge from service with immediate effect on compassionate grounds. I and my family will be always grateful to you for your act of kindness.

Yours faithfully,
Abhay Pratap Singh"

8. The respondents having favourably considered the application accorded sanction for discharge and the applicant was discharged on 30.09.2016 under Chapter III Rule 15 Clause 2(1) of Air Force Rules, 1969. The applicant, having left the Indian Air Force of his own, cannot now turn around and seek review and reinstatement. As such, there are absolutely no grounds which merit any consideration for reviewing his discharge.

9. The OA is accordingly dismissed being entirely bereft of any merit.

10. No order on costs.

11. Pending miscellaneous application(s), if any, stands disposed of.

Pronounced in the open Court on this ^{ed}22 day of December, 2023.

(RAJENDRA MENON)
CHAIRPERSON

(P.M. HARIZ)
MEMBER (A)

/ashok/