

COURT NO. 1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

A.

OA 459/2022 with MA 1197/2022

Sgt Raju Muralasetti

..... Applicant

Versus

Union of India & Ors.

..... Respondents

For Applicant : Mr. Ajit Kakkar, Advocate

For Respondents : Mr. Avdhesh Kumar Singh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
25.01.2024

Vide separate detailed order passed today. OA stands dismissed.

Learned counsel appearing for the applicant makes an oral prayer for grant of leave to appeal to appeal for impugning the aforesaid order before the Hon'ble Supreme Court. However, there being no point of law, much less any point of law of general public importance involved in the order, which warrants grant of leave to appeal, the oral prayer is declined.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

/sm/

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ORDER

MA 1197/2022

Keeping in view the averments made in the application and in the light of the decision in Union of India and others Vs. Tarsem Singh (2009(1) AISLJ 371), the delay in filing the OA is condoned.

MA stands disposed of.

OA 459/2022

Seeking discharge from service of the Air Force on compassionate ground and calling in question tenability of the speaking order dated 31.12.2021 (Annexure A1) passed by the competent authority at HQs Vayu Bhawan, New Delhi rejecting the claim of the applicant for grant of discharge on compassionate ground applicant has invoked the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act 2007.

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2. The applicant was enrolled into the Indian Air Force in September 2005 and at the relevant time when the cause of action for this issue arose, he was holding the rank of Sergeant and on 07.07.2021 he was posted at 16 WG Air Force and on 12.07.2021 the applicant submitted an application for discharge from service on compassionate ground on account of family problems. In the application submitted by the applicant on 06.08.2021 available at page 66 of the paper book he had narrated the family problems he is facing and which compelled him to seek discharge from service. It was stated therein that there is primarily nobody to look after the agricultural land in his native village at East Godavari District of Andhra Pradesh. His third sister's husband being a heavy alcoholic and missing since 2006-07, the responsibility of the sister also is on his shoulder and this has added to his misery. Applicant has also narrated instances of the death in his family in November 2010 and the ailment suffered by his mother i.e. chronic bronchial asthma, hypertension, arthritis, etc. It is the case of the applicant that being a person emotionally attached to his family he felt that his services were required by the family and therefore sought discharge from service on compassionate grounds. Referring to AFO No. 16/2008, which contemplates provisions for grant of discharge on compassionate ground and Paragraphs 2(a) thereof which provides

for grant of discharge on compassionate ground due to serious illness of parents, direct dependents, etc. of an airman and cases where the entire responsibility of the family is resting on the shoulder of the airman, it was inter alia stated that the applicant is entitled to the discharge from service on extremely compassionate grounds.

3. The respondents have filed a detailed counter affidavit, refuting the aforesaid contentions and say that the application dated 06.08.2021 wherein the request for discharge from service on compassionate ground was made has been considered in the backdrop of the requirement of the provisions to AFO 16/2008 and the competent authority by a detailed order passed on 20.10.2021 finding the same to be devoid of merit dismissed the request. However, when the applicant invoked the jurisdiction of the Hon'ble High Court of Delhi in W.P (C) No.13467/2021 seeking discharge on compassionate ground the Hon'ble High Court by an order passed on 29.11.2021 disposed of the writ petition directing the competent authority to pass a reasoned speaking order deciding the application afresh within eight weeks. Accordingly, the competent authority passed the detailed speaking order on 31.12.2021 which is impugned in this application and the same was communicated to the applicant on 06.01.2022. It is the case of the respondents that the

discharge from service under AFO 16/2008 cannot be claimed as a matter of right. Referring to Para 8 of the AFO 16/2008, it is the case of the respondents that discharge from service cannot be claimed as a matter of right and a discretion is given to the Air HQs and the competent authority to grant or reject the claim for discharge from service on compassionate grounds.

4. It is the case of the respondents that applicant was posted in Bangalore and after completing four years' tenure in Bangalore and after fulfilling the new rising requirements for Rafale Aircraft as SNCO he was trained on the same aircraft and considering domestic issues faced by the applicant, his posting to 27 Wg Af (Bhuj) was cancelled in October 2017 and he was posted to Air Force Station, Yelahanka so that he can take care of his old age mother and divorced sister. Thereafter, after completion of his tenure, he had been posted to 16 Wg AF (Hashimara) to fulfil the new raising requirements of the aircraft for which the applicant had been trained. The respondents have in detail narrated not only the requirements of service but also the reasons indicated by the competent authority in the speaking order passed on 31.12.2021. They relied upon the law laid down by the Hon'ble Supreme Court in the case of Union of India v. R.P. Yadav (2000) 5 SCC 325, the judgment of this Tribunal in O.A No. 1376 of 2019 (Corpl Neeraj

Pal v. Union of India and others) Annexure R2 to canvass the contention that compassionate discharge from service cannot be claimed as a matter of right. It depends upon the administrative requirement of the establishment, the service of the applicant to the Air Force and various other factors and therefore it is the case of the respondents that in the facts and circumstances of the case, the applicant cannot claim discharge from service on compassionate grounds.

5. We have heard the learned counsel for the parties and we have taken note of the totality of the facts and circumstances.

6. The applicant claims grant of discharge from service on compassionate grounds on account of his family commitments to look after his widowed sister and ailing mother and the agricultural property of the family in Godavari district of Andhra Pradesh. After taking note of the directions issued by the Hon'ble Delhi High Court and after evaluating the requirements of the applicant in the backdrop of the service requirements in Para 4 of the impugned order, the competent authority has mentioned the following reasons to reject the claim of the applicant:

*(a) That, your initial regular engagement period in the IAF is up to 26 Sep 2025 (20 years). You have been*



*given training by Service in Instrument Fitter trade with an aim to meet operational requirement of IAF in the interest of national security.*

*(b) That, IAF has already extended possible support to you earlier by cancelling you posting to 27 Wg, AF (Bhuj) and posting you to AFS Yelahanka (Bangalore) on compassionate grounds in the year 2017. Thereafter, on completion of tenure at Af Stn Yelahanka, you were posted to 16 Wing (Hashimara) to meet operational requirements in the interest of national security. However, instead of moving on*

It is clearly stipulated in the AFO in question that claim for discharge on compassionate ground under Para 8 is not a matter of right. The policy stipulates that no right is available to an employee to claim discharge on compassionate ground, the Air HQ and the competent authority can refuse the same in the facts of a particular case. In the case of R.P Yadav (supra), this issue had been considered by the Hon'ble Supreme Court after taking note of similar provisions available in the Indian Navy in the matter of discharge on compassionate ground and after considering various aspects of the matter, the Hon'ble Supreme Court in the aforesaid case laid down the principle in the following manner:

*“An incidental question that arises is whether the claim made by the respondents to be released from the force as of right is in keeping with the requirements of strict discipline of the naval service. In our considered view the answer to the question has to be in the negative. To vest a right in a member of the Naval Force to walk out from the service at any point of time according to his sweet will is a concept abhorrent to the high standard of discipline expected of members of defence services. The consequences in accepting such contention rose*

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*on behalf of the respondents will lead to disastrous results touching upon the security of the nation. It has to be borne in mind that members of the defence services including the Navy have the proud privilege of being entrusted with the task of security of the nation. It is a privilege which comes the way of only selected persons who have succeeded in entering the service and have maintained high standards of efficiency. The position is clear that a sailor is entitled to seek discharge from service at the end of the period for which he has been engaged and even this right is subject to the exceptions provided in the Regulations. Such provisions, in our considered view, rule out the concept of any right in a sailor to claim as of right release during subsistence of period of engagement or re-engagement as the case may be. Such a measure is required in the larger interest of the country. A sailor during the 15-20 years of initial engagement which includes the period of training attains a high-degree expertise and skill for which substantial amounts are spent from the exchequer”*

Similarly, a Coordinate Bench of this Tribunal considered an identical issue pertaining to a Corporal in the Indian Air Force and in the order passed, the provisions of Para 2 of the AFO No. 16/2008 providing for compassionate discharge were dealt with in detail and after analyzing a similar situation the issue had been considered in detail and similar request had been rejected primarily on the ground that no airman has the right to claim discharge from service on compassionate grounds and that the competent authority has the discretion to reject the same on administrative reasons.

7. Taking note of the aforesaid and the principles of law involved in the matter, we find that the competent authority has exercised its discretion while rejecting the claim of the applicant on due



consideration and considered the issue in the backdrop of the requirement of service in the Air Force and taken a decision which cannot be termed as arbitrary, unreasonable or illegal in any manner, whatsoever warranting interference.

8. Finding no ground to interfere into the matter, the O.A is dismissed.

9. No order as to costs.

10. Pronounced in open Court on this the 25 day of January 2024.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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