

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

11.

OA 562/2024 WITH MA 661/2024

Sgt Mahabir Singh Chahar (Dismissed) Applicant

Versus

Union of India & Ors. Respondents

For Applicant : Mr. Bijendra Kumar Pathak, Advocate

For Respondents : Mr. S.R. Swain, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER
16.02.2024

OA 562/2024 WITH MA 661/2024

This is a typical example of a case where the applicant slept over his right and delay and latches have crept in to such an extent that we are constrained to dismiss this application on the ground of delay and latches .

2. Facts in nutshell go to show that the applicant was enrolled in Indian Air Force on 21st November, 1978 and after serving 14 years and 49 days he was dismissed/removed from service in accordance to the provisions of Section 20(3) of the Indian Air Force Act, 1950 read with Rule 18 of the Air Force Rules, 1969.

3. A show cause notice (SCN) dated 10th December, 1992 was issued to him and after considering his response the impugned action has been taken.

4. The order was passed on 9th January, 1993. The applicant slept over the matter for 11, 287 days, i.e., more than 371 months. Apart from the fact that there is an inordinate and unexplained delay in approaching this Tribunal and in the MA 661/2024 application for condonation of delay under Section 22 of the Armed Forces Tribunal Act, 2007 except for pleading ignorance of law and advice given by his counsel, when he visited Delhi during the Covid Period for some other work, nothing has been stated as to what action was taken by him from 1993 up to 2020 for ventilating his grievances.

5. It is a case where the applicant, even if he had any right, slept over the matter and a person who sleeps over his matter and slumber over it for more than 30 years does not need the discretionary indulgence of this Tribunal.

6. That apart, the applicant was issued with a SCN on 10th December, 1992 and it was the allegation in the SCN that he was already married to one Smt Kamla Devi in the year 1971 and while she was alive he contacted marriage with another lady, namely, Smt Anita and while Smt Kamla Devi made a complaint, on inquiry, the facts were found to be correct and the SCN was issued.

7. In response to the SCN the applicant's defense was that he belongs to a remote area of Rajasthan; his parents compelled him to marry a minor girl to which he agreed, married the girl and starting living with her for about 18 years and after 18 years he

developed certain disputes with the lady and contacted the second marriage. In sum and substance, he admits that the plural marriage was contacted by him without permission of the department and after taking note of all these factors in reply to the SCN the admission is accepted and the impugned action taken.

8. We see no reason to make any indulgence into the matter. The applicant is a man in uniform, he is required to abide by the Rules and having violated the Rules if the respondents have taken any action, we see no reason now to interfere after more than 30 years. The OA is, therefore, dismissed.

9. In case the applicant wants to invoke mercy jurisdiction of the Hon'ble President of India or the Chief of Air Force staff, it is for them to take a decision and the dismissal of this application may not come in the way in exercise of the discretionary mercy jurisdiction available to these authorities.

10. Both OA and MA are disposed of.

11. A copy of this order be provided '*DASTI*' to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)