

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

**OA 1333/2021**

**Cpl Ravi Kumar Prajapati**

**... Applicant**

**VERSUS**

**Union of India and Ors.**

**...Respondent**

**For Applicant:**

Mr. Prasouk Jain, Advocate

**For Respondent:**

Ms. Jyotsna Kaushik, Advocate

**CORAM**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**

**HON'BLE LT. GEN P M HARIZ, MEMBER(A)**

**ORDER**

The present application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant, a dismissed Corporal (Cpl) in the Indian Air Force (IAF). He is aggrieved by his dismissal from service. The applicant has made the following prayers:

- (a) To declare the action of the respondents as unjust, arbitrary, prejudicial and illegal; and

- (b) To quash and set aside the impugned dismissal order dated 09.09.2020 and the subsequent dismissal certificate dated 07.10.2020; and
- (c) To pass directions to the respondents to reinstate the Applicant into services;
- (d) To award exemplary costs in favour of the applicant;
- (e) To pass such other/further orders which this Hon'ble Tribunal may deem fit and proper in the existing facts and circumstances of the case.

### **Brief Facts of the Case**

2. The applicant was enrolled in the IAF on 28.09.2011 and was posted to 2305 IGLA Flt wef 24.04.2017. At the time of the alleged misconduct, the applicant was staying in the airmen billet building No 1194 (Narmada Block) of 230 SU, AF. On 10.02.2020, a search was authorized and carried out by the Station Commander (Stn Cdr) 230 SIJ, AF. In this search, certain suspicious items were confiscated which were claimed as dried marijuana known as 'Ganja', charas sticks known as 'Sulfa' and clay pipes known as 'Chillam' for smoking. On 12.02.2020, Stn Cdr

230 SU, AF ordered a Formal Investigation (FI) to enquire into the incident.

3. The applicant has also voluntarily made two confessional statements dated 10.02.2020 and 25.02.2020. The first confession, reference was erroneously made of AFO 15/2000, which was superseded by latest AFO on the subject i.e. AFO 03/2020. Accordingly, second confession was recorded citing correct AFO i.e. AFO 03/2010, which was also video recorded. The FI held the applicant blameworthy for the counts of procurement, possession and use of charas, ganja and also selling these to other airmen in Narmada Block from Apr 2017 to Feb 2020; sharing of suspicious items ganja and charas in Narmada Block on payment with Cpl Sumeet, Auto Tech, Cpl Gaurav Khatwal Auto Tech and Cpl Jishnu Lal Med Asst; and use of suspicious items, ganja and charas in the billet for smoking from Apr 2017 to Feb 2020.

4. Considering the circumstances of the case, and the gravity of the misconduct, further retention of the applicant in service was considered undesirable. Accordingly, the competent authority i.e. the AOC-in-C, WAC, IAF while approving proceedings of FI directed to initiate administrative action against the applicant in terms of Sec 20(3) of the Air Force Act, 1950 (hereinafter referred

as the 'the Act'), read with Rule 18 of the Air Force Rules,1969 (hereinafter referred as 'the Rules'), for his dismissal from the service. Accordingly, Show Cause Notice (SCN) dated 05.06.2020 was issued to the applicant, in response to which the applicant submitted two replies both dated 30.07.2020. Further, Cpl Sumeet Kumar Auto Tech, Cpl Gaurav Khatwal Auto Tech and Cpl Jhinsu Lal Med Asst were awarded 'Censure' of "Severe Displeasure for 18 months" on 07.09.2020. The competent authority i.e. the AOC-in-C, WAC, IAF, after duly considering all facts and circumstances of the case, including the reply submitted by the applicant, in exercise of power vested in him under Section 20(3) of the Act read with Rule 18 of the rules, ordered dismissal of the applicant. Aggrieved by this dismissal order the applicant preferred the current OA.

### **Arguments by the Counsel of the Applicant**

5. The counsel took us through the service profile of the applicant and stated that at the time of the alleged misconduct the applicant was staying in the airmen billet building No.194 (Narmada Block) of 230 SU, AF. He stated that on 10.02.2020, a search was authorized and carried out by the Stn Cdr 230 SIJ, AF

wherein certain suspicious items were confiscated which were claimed as dried marijuana known as ganja, charas sticks known as 'sulfa' and clay pipes known as 'chillam' for smoking.

6. The counsel alleged that the items recovered were purportedly seized from the applicant's cupboard, which was reportedly found unlocked upon the applicant's arrival and was not in the immediate possession of the applicant. Furthermore, he mentioned that no forensic examination was carried out on the purportedly seized items, thereby precluding a definitive determination of their true nature or relevance to the matter at hand.

7. The counsel alleged that the applicant on 10.02.2020 was coerced to make a confession statement without free will under AFO 015/2000 accepting the acts of the alleged misconduct. He alleged that the said confession statement was made under-duress and was not video-graphed, thus being violative of AFO 03/2010 and hence not admissible.

8. The counsel further stated that FI that was initiated on 12.02.2020 which allegedly inquired into the circumstances under which the unauthorized/suspicious material was found in the locker of the applicant was not communicated to the applicant

hence he was unaware about the occurrence, nature or consequences of such investigation.

9. The counsel submitted that the applicant on 25.02.2020 was coerced to make a confession statement, recorded under AFO 03/2020, 15 days after the recovery incident. He alleged that the video recording was fragmented with pauses used to pressure specific confessions. Notably, the video was not provided to the applicant or included in the evidence during the Formal Investigation, violating principles of natural justice.

10. He stated the FI's recommended the following administrative actions:

(a) Administrative actions may be initiated against Witness No. 2, 3 and 4 for procurement, possession, sharing and use of suspicious items, ganja and charas in Airmen Billet Narmada Block for smoking.

(b) Administrative actions may be initiated against Witness No. 5 for sharing and use of suspicious items, ganja and charas in Airmen Billet Narmada Block for smoking.

(c) Personnel involved in procurement, possession, sharing and use of suspicious items, ganja and charas, as brought

out in the investigation may be monitored regularly to avoid recurrence as well as proliferation to other personnel.

11. Identical recommendations were made against the applicant and two others by the Presiding Officer of the FI. Subsequently, administrative action was approved against the applicant under Section 20(3) of the Air Force Act, 1950, read with Rule 18 of the AF Rules, 1969. Meanwhile, administrative action under AFO 03/2008 was initiated against other involved personnel, creating a perceived distinction between them.

12. The counsel stated that the applicant received a SCN dated 05.06.2020 asking the applicant to show cause as to why he should not be dismissed under Section 20(3) of the Air Force Act and that the applicant had submitted a reply dated 30.07.2020 stating that the allegations against the applicant were baseless and that the entire investigation was faulty and also denying that he had procured or consumed any of the illegal substances.

13. The counsel stated that the applicant was dismissed from service vide dismissal order dated 09.09.2020 and certificate of dismissal dated 07.10.2020. Aggrieved by the dismissal order the applicant preferred an appeal to AOC-in-C Western Air Command, IAF dated 29.01.2021. Subsequent to this a reminder letter dated

26.03.2021 was also sent to AOC-in-C referring to the appeal, but even after that no action was taken by the authorities

14. The counsel also relied on the following cases:

(a) Judgement of Hon'ble Supreme Court in **Rajendra Yadav vs. State of Madhya Pradesh and Ors** (2013) 3 SCC 73.

(b) Judgement of Hon'ble Supreme Court in **Union of India and Ors vs. Lakhoo Ram and Ors** (2001) 10 SCC 530.

(c) Judgement of Hon'ble Supreme Court in **Akhilesh Kumar Singh vs. State of Jharkhand** (2008) 2 SCC 74.

(d) Judgement of Hon'ble Supreme Court in **Balwinder Singh Vs. State of Punjab** (1996) SCC(CH) 59.

(e) Judgement of Hon'ble AFT, PB in **Raii vs. Chief of the Army Staff, New Delhi and Ors** (dated 17.09.2015)

(f) Judgement of Hon'ble Supreme Court in **Ranjit Thakur vs. Union of India and Ors** (1987) (4) SCC 611

### **Arguments by Counsel for the Respondents**

15. Per contra, the counsel for the respondents stated that the applicant was found in possession of the stated suspicious items,

which were confiscated by the search team. Further, it was confirmed by the applicant himself that the said suspicious items were ganja, sulfa, charas and chillam for smoking.

16. He further stated that, Stn Cdr 230 SUI AF ordered a FI on 12.02.2020 wherein it was found that the applicant had initially purchased 'ganja in small quantities from his hometown but by the end of 2018, he started procuring the same from multiple locations/persons at Amritsar. Further, he used to consume and share such suspicious items with others. The FI recommended administrative action against the blamed air warriors.

17. The counsel emphasized that according to the evidence on record in FI, out of the four airmen, the applicant was the key player of the group and was not only involved in using the psychotropic substance but he also got others to smoke the same in his room in the billet. He further alleged that the psychotropic substances were found in possession of the applicant subsequent to which he confessed of procuring it from his hometown and using the same.

18. The counsel mentioned that the applicant had earlier earned two punishment entries (one red and one black) in his service career. Accordingly, the competent authority AOC-in-C, WAC, IAF

while approving proceedings of FI directed to initiate administrative action against the applicant in terms of Sec 20(3) of the Air Force Act, 1950, read with Rule 18 of the Air Force Rules, 1969 for his dismissal from the service.

19. The Counsel further added that SCN dated 05.06.2020 was issued to the applicant, in response to when the applicant submitted two replies both dated 30.07.2020. The competent authority i.e. the AOC-in-C, WAC, IAF, after duly considering all facts and circumstances of the case, including reply submitted by the applicant, in exercise of power vested in him under section 20(3) of the Act read with Rule 18 of the Rules, ordered dismissal of the applicant vide dismissal order dated 09.10.2020. Further, the other three airmen were awarded 'Censure' of service displeasure for 18 months on 07.10.2020. The counsel mentioned that since no recovery was made from the other three airmen and that the misconduct on their part was therefore of a lesser degree than the blame apportioned on the applicant who was responsible for procuring, holding, distributing and using the banned substance. The counsel prayed that the OA be therefore dismissed.

## **Consideration**

20. Having heard both the parties, the only issue for consideration is whether the respondents were justified in administratively dismissing the applicant for misconduct as established by the investigation.

## **Statutory Provisions**

### **AIR FORCE ACT, 1950**

#### ***20. Dismissal, removal or reduction by Chief of the Air Staff and other officers.***

*(3) An officer having power not less than an air officer in charge of a command or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a warrant officer.*

### **AIR FORCE RULES, 1969**

#### ***18. Dismissal or removal of a person subject to the Act other than an officer.***

*(1) Save in a case where a person subject to the act other than an officer is dismissed or removed from the service on the ground of conduct which had led to his conviction by a criminal court or a court-martial, no such person shall be dismissed or removed under sub-section (1) or sub-section (3) of Section 20 unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service.*

*(2) Notwithstanding anything contained in sub-rule (1), if in the opinion of the officer competent to order the dismissal or removal or such person, it is not expedient or reasonably practicable to comply*

*with the provisions of sub-rule (1), he may after certifying to that effect, order the dismissal or removal.*

*(3) All cases of dismissal or removal without complying with the procedure prescribed in sub-rule (1) shall, without delay, be reported to the Central Government.*

## **REGULATION FOR THE AIR FORCE, 1964**

### **CHAPTER XII - DISCIPLINE**

#### **Section 1- General**

##### **573. Intoxicants.**

*The introduction of wines, spirits and other intoxicants into barrack rooms and such other places, as may, for the time being be specified in standing orders, is forbidden.*

### **CHAPTER XV-COURT OF INQUIRY**

#### **790. Action when Character, etc. of persons is affected**

*(a) As soon as it appears to the court that the character or professional reputation of an officer or airman is affected by the evidence recorded, or that he is to blame, the affected person is to be so informed by the court. All the evidence recorded up to that stage is to be read over to the affected person, and the court is to explain to the person, if so required by him, how, in its opinion, it appears that the officer's or airman's character or professional reputation is adversely affected, or how he appears to be to blame.*

*(b) From the time an officer or airman is so informed, in accordance with sub-para (a) above he has the right to be present during all the ensuing proceedings, except when the court is deliberating privately. The fact that an officer or airman to whom this para applies is or is not present will be recorded in the proceedings.*

*(c) The affected officer or airman may, if he so desires, cross-examine any witness whose evidence was recorded prior to the action taken under sub-para (a) above. He may, likewise, cross-examine subsequent witnesses after their statements have been recorded. He may also request the court to record the evidence of any witness in his defence. The officer or airman may make any statement in his defence.*

**AIR FORCE RULES 1969**

**CHAPTER III**

***Dismissal, Discharges, etc.***

***18. Dismissal or removal of a person subject to the Act other than an Officer.***

*(1) Save in a case where a person subject to the Act other than an officer is dismissed or removed from the service on the ground of conduct which had led to his conviction by a criminal court or a court-martial, no such person shall be dismissed or removed Under sub section (1) or sub-section (3) of section 20 unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service.*

*(2) Notwithstanding anything contained in sub-rule (1), if in the opinion of the officer competent to order the dismissal or removal of such person, it is not expedient or reasonably practicable to comply with the provisions of sub-rule (1), he may after, certifying to that effect order the dismissal or removal.*

*(3) All cases of dismissal or removal without complying with the procedure prescribed in sub-rule (1) shall, without delay, be reported to the Central Government.*

21. The investigation was carried out from 12.02.2020 to 19.03.2020 at 230 SU AF under the order dated 12.02.2020. The findings and recommendations of the Formal Investigation are reproduced below:

**Investigation Report**

**FORMAL INVESTIGATION**  
**ASSEMBLED AT 230 SU, AIR FORCE**  
**ON 12 FEB 20**

## **FINDINGS**

1. Investigation ordered as per after-order of SRO SI No. 12/20 dated 12 Feb 20 assembled at 1100.hm on 12 Feb 20, finds the following:

(a) Stn Odr 230 SU, on receipt of inputs from credible sources on use of suspicious Items in billets, issued a search warrant for searching of Airmen Billets on 10 Feb 20, after taking clearance from HQ WAC and Air HQ. The search team including Wg Cdr Madhu Kagath, APM 15 P&S, Sqn Ldr Serijaav Sharma as independent search officer, Fit Lt Chetna Dhanker as witnessing officer and also provost staff conducted the search.

(b) On conduct of search, Cpl Prajapati of 2305 Fit was found to possess suspicious Items which were confiscated and kept in Stn Adit's Office. Cpl Prajapati confirmed that the materials were dried marijuana known as Ganja', charas sticks known as 'Sulfa' and clay pipes known as 'Chillam' for smoking. APM and LU team questioned Cpl Prajapati, Cpl Sumeat Kumar and Cpl Gaurav in this regard on 11 Feb 20. A Formal Investigation was ordered as per after-order of SRO SI No. 12/20 dated 12 Feb 20.

(c) Investigating Officer inspected materials, video recordings of the search in Adjt's Office. Seizure Memo produced by Witness No.1 is annexed as Exhibit 'B'. Confession statement of Witnesses 2 was recorded initially by Witness No. 6 as per provisions of AFO 15/2000. However, as per provisions of AFO 03/2010 a videography of the statement is to be conducted. Subsequently, confession was recorded again under videography on 25 Feb 20. The earlier recorded statement was narrated by Witness No. 2 and re-written again by Witness No.8. A Copy has been attached as Exhibit 'C'.

(d) Witnesses 2, 3 and 4 were familiar/knowledgeable with the use of Ganja/Cheras since childhood since it was rampantly used in their home town though they never developed It's use as a habit before joining Service. Cpl Prajapati and Cpl Geurav visited religious placed, Interacted with Naga Sadhus Saints and tasted smoking Ganja. They started smoking as a Prasad in the name of Bholenath, God Shiva. Later on it developed as a habit. Cpl Prajapati purchased Ganja in small quantities from his home town Initially and subsequently purchased from multiple locations / persons at Amritsar. Cpl Sumeet also procured from his home town many times and also accompanied Cpi Prajapati for procurements at times. Cpl Gaurav procured it only once. However they all shared the cost equally which was around Rs. 1000/- per month, depending upon availability. They prepared it In the form of cigarette of chillam and shared it in the billet of Cpi Prajapati around 15-20 times in a month, following certain procedures/rules. Later Cpi Jiahnu Lal also Joined their group and shared equally.

(e) The materials confiscated from Cpl Prajapati are kept sealed In Adjit's office. All four witnesses have admitted that the materials confiscated are Ganja and Charas only, though not yet been verified officially. Marijuana is a contraband herb known as Genja, various parts of the plant are dried and used along with tobacco in cigarettes/chillam as intoxicants. According to the statements of witnesses, Marijuana plant is crushed, sap/resin is collected and dried to prepare charas known in various -nernes as 'grass', 'weed', 'black', 'samaan', 'prasad', 'goll" etc. The sap is used widely as "bhang' during festivals / functions as stimulant. Though it is a banned substance in India, It is widely available clandestinely in many north-Indian towns/villages.

(f) The materials were never sold to anybody for money, however a large number of people were aware of the availability in Gpl Prajapati's room. Residence of Cpl Sumeet in the civil area was also used a couple of times for the purpose. Some air warriors on T/D from other Stations also shared smoke with Cpl Prajapati since they were already habituated to it.

(h) Apparently, they never used any other costly drug substances in the form of powder or injection for the purpose. All Individuals seem to be responsible and disciplined in financial matters. They used it for pleasure as a cheap Intoxicant.

(j) Witness No. 2, 3 and 4 are found blameworthy for procurement, possession, sharing and use of suspicious items, Ganja and Charas in Airmen Billet Narmada Block for smoking.

(k) Witness No. 5 is found blameworthy for sharing and use of suspicious Items, Ganja and Charas in Airmeri Billet Narmada Block for smoking.

(m) Procurement, possession, sharing and use of suspicious items, Ganja and Charas in Almen Billet Narmada Block were known to certain Living / In personnel, however it was not reported to the 'Station administration by anybody.

(K. Rajendran)  
Wg Cdr  
Presiding Officer

19 Mar 20

RECOMMENDATIONS

*The Investigation after studying the recorded statements and evidences recommends the following:*

*(a) Administrative actions may be initiated against Witness No. 2, 3 and 4 for procurement, possession, sharing and use of suspicious Items, Ganja and Charas In Airmen Billet Narmada Block for smoking.*

*(b) Administrative actions may be initiated against Witness No. 5 for sharing and use of suspicious Items, Ganja and Charas in Alrmes Billet Narmada Block for smoking.*

*(c) Personnel Involved in procurement, possession, sharing and use of suspicious Items, Ganja and Cheras, as brought out in the investigation may be monitored regularly to avoid recurrence as well as proliferation to other personnel.*

*(K. Rajendran)  
Wg Cdr  
Presiding Officer*

*19 Mar 20*

22. Based on the recommendation of the FI, a SCN dated 05.06.2020 was issued to the applicant. The SCN is reproduced below:

**SCN**

*ANNETURE-A6  
HQ Western Air Command,  
Indian Air Force,  
Subroto Park,  
New Delhi-110010*

*WACIC 2802/4/496/Discip*

*05 Jun 20*

*954329 Cpl Ravi Kumar Prajapati Auto Tec*

**SHOW CAUSE NOTICE**

*1 WHEREAS, you were enrolled in the Indian Air Force on 28 September 2011 and are presently held on the posted strength of 2305 IGLA Fit, AF, with effect from 24 April 2017:*

2. AND WHEREAS, you are staying in Airmen Billet Building No-194 (Narmada Block) of 230 SU, AF.

3. AND WHEREAS, on 10 Feb 20, a search was carried out in said Airmen billet Narmada Block vide order dated 10 Feb 20 issued by Station Commander 230 SU, AF. During the said search, suspicious items were confiscated which were in your possession in the said billet. You confirmed that the said suspicious items were dried marijuana known as 'Ganja', charas sticks known as 'Sulfa' and clay pipes known as 'Chiliam' for smoking

4 AND WHEREAS, a Formal Investigation (in short FI) was assembled at 230 SU, AF on 12 Feb 20 and subsequent days to Inquire into the circumstances under which an unauthorized/ suspicious material was recovered from living in billet at 230 SU during the search at 1830 hrs on 10 Feb 20,

5. AND WHEREAS, you had also voluntarily made a confessional statement on 25 Feb 20, which was duly recorded. Copy of the same is placed as Exhibit C to the proceedings of the Ft,

6 AND WHEREAS, the investigating officer after examination of the evidence found you blemeworthy for. -

(a) Procurement of suspicious items, Charss from various vendors from Apr 17 to Feb 20,

(b) Possession/keeping of suspicious items, Charas in Airmen Billet, Narmada Block from Apr 17 to Feb 20,

(c) Sharing of suspicious items, Ganja and Charas in Alrmen Billet Narmada Block on payment with Cpl Sumeet Auto Tech, Cpl Gaurav Khatwal Auto Tech and Cpl Jishnu Lal Med Asst; and

(d) Use of suspicious items, Ganje and Charas in Almen Billet Narmada Block for smoking from Apr 17 to Feb 20.

7. AND WHEREAS, Para 573 of the Regs for the Air Force, 1964, lays down that, the introduction of wines, spirits and other intoxicants into barrack rooms and such other places, as may, for the time being be specified in standing orders, is forbidden. The use of drugs by the combatant members of the Air Force is not only prejudicial to the good order and Air Force Discipline but would also adversely affect the operational preparedness of the force. Such misconduct of using and sharing drugs in the aimen billet is against the ethos and customs of service and also effect the basic social fabric of the Air Force at large,

8. AND WHEREAS, it is established that you were not only Involved in using psychotropic substance but also roped in others to smoke the same in your room in the Billet. You also collected money and procured the said items from your home town and from other persons locally.

*The psychotropic substance 'Ganja' was found in your possession and you confessed of procuring and using the same from your home town. The misconduct on your part is not only condemnable but also prejudicial to the community & social living in the IAF;*

*9. AND WHEREAS, the Air Officer Commanding-in-Chief Western Air Command, Indian Air Force, after having duly considered the entire evidence on record of this FI, is of the opinion that the above said reprehensible acts committed by you constitute grave misconduct on your part, rendering your further retention in the service undesirable,*

*10. AND WHEREAS, after having considered the case in its entirety, the AOC-in-C, Western Air Command, Indian Air Force, has directed to serve upon you this Show Cause Notice; and*

*11. NOW THEREFORE, you are to show cause as to why you should not be dismissed from the service in terms of Section 20 (3) of the Air Force Act, 1950, read with Rule 18 of the Air Force Rules, 1989, for your grave misconduct as brought out herein above. Your reply stating all the reasons and circumstances in your defence, if any, is to be submitted to the Station Commander, 230 SU, Air Force, within ten (10) days from the date of receipt of this Notice, failing which it shall be assumed that you have nothing to urge in your defence and further action as deemed appropriate would be taken*

*12. A copy of the subject FI proceedings is annexed herewith, for your reference.*

*(Sunit Tripathi)  
Group Captain  
Command Discipline Officer  
For Air Officer Commanding-in-Chief*

23. The SCN was replied by the applicant vide letter dated

30.07.2020 in which is summarized below:

(a) Para 1 & 2: The applicant consented to the content of paras 1 and 2 as true.

(b) Para 3: The applicant submitted that on 10 Feb 2020, while on duty, he was called to his billet where a surprise search was conducted by senior officers. Alleged narcotic

substances were found in his unlocked cupboard, which is a shared and publicly accessible area. He denied owning the substances and claimed that his confession was made under coercion and psychological pressure. He emphasized his humble background and responsibility towards his family, expressing that he would not engage in illegal activities for financial gain.

(c) Para 4: The applicant stated that he was unaware of the events mentioned in this paragraph at the time they occurred.

(d) Para 5: The applicant denied that his video-recorded confession on 25.02.2020 was voluntary. He claimed it was made after 15 days of constant psychological pressure, during which he was given false assurances. He alleged that the confession was scripted by his superiors.

(e) Para 6: The applicant challenged the findings:

(i) He reiterated that the substances were not found in his possession but in his belongings, which were unsecured.

(ii) He denied knowing of the alleged psychotropic substances.

(iii) He acknowledged sharing tobacco-based products with others but insisted they did not contain any illegal substances.

(iv) He denied selling or distributing any such items.

(f) Para 7: The applicant denied consuming any psychotropic substances in his billet, claiming that the allegations of such activities occurring for three years without the authorities' knowledge were illogical and untrue.

(g) Para 8: The applicant asserted that the allegations of procuring and distributing psychotropic substances were false and intended to malign his reputation. He noted that there was no verification from an authorized testing agency regarding the psychotropic nature of the substances found.

(h) Para 9: The applicant expressed his gratitude towards the Air Force for the life lessons he had learned and pleaded for exoneration under Section 82 of the Air Force Act, requesting mercy and a fair chance to defend himself.

The applicant concluded by requesting a summary disposal proceeding, emphasizing that his livelihood and family's reputation depend on the outcome of this case.

24. The Competent authority having examined the reply of the applicant to the SCN and having taken into consideration all other factors ordered his dismissal vide order dated 09.09.2020.

### **Dismissal Order**

*HQ WAC, IAF*

*Subroto Park*

*New Delhi-10*

*WAC/C 2802/4/496/Discip*

*954329 Cpl Ravi Kumar Prajapati Auto Tech*

*2305 Flt, AF C/o 230 SU, AF*

*ORDER FOR DISMISSAL FROM SERVICE IN RESPECT OF 954329 CPL RAVI KUMAR PRAJAPATI AUTO TECH IN TERMS OF SECTION 20(3) AIR FORCE ACT 1950, READ WITH RULE 18 OF THE AIR FORCE RULES, 1969*

*1. WHEREAS, you were enrolled in the Indian Air Force on 28 September 2011 and is presently held on the posted strength of 2305 IGLA Flt, AF, with effect from 24 April 2017,*

*2 AND WHEREAS, you were staying in Airmen Billet Building No-194 (Narmada Block) of 230 SU, AF*

*3. AND WHEREAS, on 10 Feb 20, a search was carried out in said Airmen billet Narmada Block vide order dated 10 Feb 20 issued by Station Commander 230 SU, AF. During the said search, suspicious items were confiscated which were in your possession in the said billet. You confirmed that the said suspicious items were dried marijuana known as 'Ganja', charas sticks known as 'Sulfa' and clay pipes known as 'Chillam' for smoking.*

*4. AND WHEREAS, a Formal Investigation (in short FI) was assembled at 230 SU, AF on 12 Feb 20 and subsequent days to enquire into the circumstances under which an unauthorized/ suspicious material was recovered from living in billet at 230 SU during the search at 1630 hrs on 10 Feb 20;*

*5. AND WHEREAS, you had also voluntarily made a confessional statement on 25 Feb 20, which was duly recorded. Copy of the same is placed as Exhibit C to the proceedings of the FI;*

6. AND WHEREAS, the investigating officer after examination of the evidence found you blameworthy for: -

(a) Procurement of suspicious Items, Charas from various vendors from Apr 17 to Feb 20

(b) Possession / keeping of suspicious items, Charas in Airmen Billet, Narmada Block from Apr 17 to Feb 20

(c) Sharing of suspicious items, Ganja and Charas in Airmen Billet Narmada Block on payment with Cpl Sumeet Auto Tech, Cpl Gaurav Khatwal Auto Tech and Cpl Jishnu Lal Med Asst, and

(d) Use of suspicious items, Ganja and Charas in Airmen Billet Narmada Block for smoking from Apr 17 to Feb 20.

7. AND WHEREAS, Para 573 of the Regs for the Air Force, 1964, lays down that, the introduction of wines, spirits and other intoxicants into barrack rooms and such other places, as may, for the time being be specified in standing orders, is forbidden. The use of intoxicants by the combatant members of the Air Force is not only prejudicial to the Good Order and Air Force Discipline but would also adversely affect the operational preparedness of the force. Such misconduct of using and sharing drugs in the airmen billet is against the ethos and customs of service and also effect the basic social fabric of the Air Force at large;

8. AND WHEREAS, on directions of Air Officer Commanding-in- Chief (AOC-in-C) Western Air Command, Indian Air Force, a Show Cause Notice (SCN) in terms of Rule 18 of the Air Force Rules, 1969, was served upon you vide letter number WAC/C 2802/4/496/Discip dated 05 Jun 20 calling upon you to urge reasons as to why you should not be dismissed from the service under the provisions of Section 20 (3) of the Air Force Act, 1950, read with Rule 18 of Air Force Rules, 1969, for your aforesaid misconduct, which was received by you on 21 Jul 20;

9. AND WHEREAS, you had submitted a reply dated 30 Jul 20, which was processed by Stin Cdr 230 SU, AF. However, you submitted another application dated 05 Aug 20 vide which you submitted another reply dated 30 Jul 20 and requested that your earlier reply dated 30 Jul 20 be cancelled and fresh reply be considered. In this reply to SCN you have mainly stated that: -

(a) That, on 10 Feb 20, you were detailed to carry out regular duty at Station URC. At around 1630 hrs, you were called by authorities to your billet in the billet, you found the Station Commander, Wing Commander Madhu Kagath (APM), San Ldr Sanjeev Sharma and Son Ldr Chetna Dhankar along with Provost Personnel. You were told that, they have come to check your belongings as per order given by the Station Commander. You were taken aback and awestruck on the

*situation which was unfolding before you without any of your fault and complied with all instructions given to you;*

*(b) That, the alleged NDPS substance was not caught in person with you but was found in your belongings. The billet is a public area and no person was detailed to take care of billet on that particular day. Further, cupboard provided to you was unlocked before you arrived at the scene. You were completely shocked to see the items in the cupboard, as you had never seen those items before. The video camera proceedings were paused and you were forced to confess on camera to claim ownership of alleged materials. The authorities kept assuring you that it was a routine check and no harm will come on you. Your confession is not to be treated as "Confession of free consent". You have only confirmed what authorities told you to confess and nothing more;*

*(c) That, you hail from a very poor family and is the only bread earner as you lost your father at very early age and has to support your mother and three siblings. You have never involved yourself in acquiring and profiting from the sale of alleged substances. Though you confess that, you used to smoke Chillam (Tobacco mixed with Jaggery), you are not an addict and it never had the alleged psychotropic substance in it. For sake of your old dependent mother and your siblings, you confessed to mala fide allegations. You were given false assurance of exoneration of all false charges;*

*(d) That, your confessional statement on 25 Feb 20 (video statement) after a lapse of 15 days of the initial incident was in no way a voluntary confession. You were being given false assurance and was being subjected to a continuous barrage of psychological as well emotional pressures. You were even given the brief statement and was instructed on the lines on which you had to give his alleged confession. The time gap between the seizure and so called confession under FI, was used to cajole, threaten and pressurize you by undue influence of authority and power, 4*

*(e) That, the investigation officer found you blameworthy for substance found in your belongings and not from you in person. Before reaching venue of seizure, the place was not safely guarded by any independent person. Witness No. 4 (Cpl Gaurav Khatwal) has clearly stated that he (Witness No. 4) had placed certain substances in the cupboard previous night. Though you may have the ownership of one substance, i.e., Normal Jaggery mixed Tobacco, and not some psychotropic substance. The alleged 10 grms sachet of tobacco may have been carried by you along with the other items like pickle, ghee, etc when you went home on leave in the month of Jan 2020;*

*(f) That, you knew the person mentioned in Para 6 of SCN but you only shared cigarette or chillam filled with normal jaggery mixed tobacco*

*occasionally but on courtesy basis, and not on payment, every single time. The allegations put up by co-accused to the best reason, known to themselves or under any undue influence/threatening:*

*(g) That, you had never consumed any alleged psychotropic substance such as wine, beer and other inhalable material in billet. The billet, allotted to you is not a single room occupancy where a man could indulge himself of any evil facility according to his wishes. It is preposterous to even think that all this continued inside the billet for almost three years from Apr 17 to Feb 20 as alleged without the authorities ever getting a hint about it;*

*(h) That, the allegations of procuring and rationing it by you and other airwarriors is totally baseless and untrue. If your mens-rea (intention) was such as alleged i.e., commercial distribution of NDPS substance, you would not have done it from the premises of your bed and locker. It is possible that, you might have inadvertently brought one small sachet of normal jaggery mixed tobacco. The alleged seized materials are not yours, if they found to be psychotropic substance. However, said substances have never been verified from any authorized testing agency to prove the fact,*

*(j) That, the esteemed authority may exonerate you from your perceived faults and your case may be dealt with under Section 82 of AF Act so that you get a fair chance to defend himself. 10. AND WHEREAS, I have duly considered the entire material on record including the SCN dated 05 Jun 20 and your reply dated 30 Jul 20 and find that:-*

*(a) The FI conducted in your case is procedurally in order and you have been afforded full opportunity to vindicate yourself. Principles of natural justice have been duly complied with.*

*(b) Blame apportioned by the FI to you as aforesaid and as mentioned in the SCN is substantiated by the evidence on record. You also made a Confession which was duly recorded and is part of the proceedings of FI. The proceedings of FI bring out that the first confession was recorded on 10 Feb 20. You gave a second confession on 25 Feb 20 (Exhibit C to the proceedings), which was videographed. The confessions dated 10 Feb 20 and 25 Feb 20 have the same contents.*

*(c) You gave a statement on 13 Feb 20 before the FI, wherein you accepted your acts of misconduct and recovery of the said substance from your billet and also signed the same. Provisions of Para 790 (a) (b) & (c) of the Regulations for the Air Force (Revised Edition) 1964 were applied on you on 17 Feb 20, wherein you did not wish to cross-examine any witness, produce any witness in defence or make any additional statement. Further, provisions of Para 790 (e) of the Regulations were applied on you on 27 Feb 20, where you did not wish to make any additional statement. At no stage during the FI or at any*

later stage you raised the issue of being cajoled, threatened and pressurized by the Stn Authorities. The issue has now been raised for the first time when the SCN has been issued to you.

(d) The proceedings of FI clearly bring out that out of the four airmen blamed, you brought others in the habit of smoking 'ganja' in your room in the Billet. You also collected money and procured the ganja from your home town and from other persons locally. The psychotropic substance 'Ganja' was found in your possession and you confessed of procuring and using the same.

(e) in your reply to SCN you have stated that the alleged 10 gms sachet of tobacco may have been carried by you along with the other items like pickle, ghee, etc when you went home on leave in the month of Jan 2020. You have also stated that you knew the person mentioned in Para 6 of SCN and only shared cigarette or chillam filled with normal jaggery mixed tobacco occasionally but on courtesy basis, and not on payment, every single time. However, you accepted about the alleged acts of misconduct in your statements before the FI including the ownership of the substance seized from your billet. These facts have been corroborated by other witnesses.

(f) Your contentions in your reply to the SCN are an afterthought and devoid of any merit.

(g) The misconduct on your part is not only condemnable but also prejudicial to the community & social living in the IAF;

11. AND WHEREAS, after giving careful consideration to all the material on record, the undersigned is of the opinion that your above said acts of misconduct are contrary to service ethos and detrimental to community living in the Indian Air Force. The contents of your reply dated 30 Jul 20 to the Show Cause Notice do not bring out any grounds justifying your misconducts and that your further retention in Indian Air Force is not desirable;

12. NOW THEREFORE, in exercise of the powers vested in me under Section 20(3) of the AF Act, 1950 read with Rule 18 (1) of the AF Rules, 1969, I hereby order your dismissal from the Service.

Signed this the ninth day of September, 2020.

(VR Chaudhari)  
Air Marshal  
Air Officer Commanding-in-Chief  
Western Air Command, IAF

Received the original Order for Dismissal from the Service.

Signature:

*Service No.9543294*

*Rank CH*

*Name*

*Trade*

*Date*

*Unit*

25. On perusal of the documents on record, we have no hesitation in upholding the action of the respondents which have been taken based on the various statutory provisions. Considering the nature of the offence, it is clearly contrary to service ethics, military discipline and detrimental to community living in the services. We find no malafide in the process. Accordingly, the OA stands dismissed.

26. No order as to costs.

27. MA if any, stands disposed.

Pronounced in open Court on this 27<sup>th</sup> day of September, 2024.

**[JUSTICE RAJENDRA MENON]  
CHAIRPERSON**

**[LT GEN P.M. HARIZ]  
MEMBER (A)**

/ashok/