

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

1.

OA 5183/2024 with MA 5438/2024

Sgt Abhishek Pandey ..... Applicant  
Versus  
Union of India & Ors. .... Respondents  
For Applicant : Mr. Bipin Bihari, Advocate  
For Respondents : Mr. Avdhesh Kumar Singh, Advocate with  
Wg Cdr T. N. Swamy, Deptt. Rep.

CORAM

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

ORDER  
17.12.2024

OA 5183/2024 with MA 5438/2024

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, applicant has filed this application and the relief claimed in Para 8 reads as under:-

- “(a) To call for the records and direct the respondents to initiate the disciplinary proceedings against delinquent personnel in accordance with procedure established by law, and/or.
- (b) to direct the respondents to inquire into circumstances under which CCTV footage of the alleged incident missing, or/and;
- (c) to pay the compensation of Rs. 10,00,000/- to make good the mental injury caused to the applicant and his wife, minor child and other family member vis-à-vis mental agony harassment etc;or/and,

(d) to pay the cost of the litigation and other costs as the court may deem fit.

(e) Any order or orders, direction/Directions considering foregoing facts and circumstances as this Hon'ble Tribunal may deem fit."

2. Having heard learned counsel for the parties, we find that the applicant is aggrieved of the action taken by the respondents with regard to the complaint made by the applicant against the so called whimsical action of the security personnel on IAF, i.e., respondent No.5, 6 and 7 in the matter of what has been termed by the applicant with regard to humiliating him, whimsically debarring him from joining duty and various other issues. Applicant is aggrieved by the speaking order passed by the respondents whereby the complaint of the applicant has been rejected. He is aggrieved by the manner in which his complaint has been disposed of. He wants action to be taken against officers for the same.

3. We find from the records that when the applicant was posted in the establishment and on 11.04.2023 while going to duty around 0710 hours with his child whom he wanted to drop at Kendriya Vidyalaya situated in the camp area, the applicant who lives outside the camp area was prevented from entering the premises on account of Red Alert issued in

the area and it seems that for the purpose of conducting security check the incidence took place. Be it as it may be, it is the grievance of the applicant that he was forcibly stopped and dealt with in the manner described in Para 4.3 of the application which reads as under:-

“ 4.3 xxx xxx xxx

- (i) “He started with “Apko nahi pata alert chal raha hai, bina I-Card dikhaye aap aise kaise andar tak ghus gaye.”
- (ii) “Apki bike ab cease hogi”
- (iii) “When I told him that “I have shown you his I-Card and I am also in the main uniform, I am on duty, please let my child go to school, after that if I commit any crime you will take action”, He denied repeatedly and told my “Bike side me khadi karo aur chup chap pedal jao.”
- (iv) Then he forcefully took my keys out from my bike and I took back the keys as he was not authorized to take out my keys from the bike. Accordingly, I asked him “under what rule did you take out the keys of my car and you have no authority to do so.”
- (v) Then he ordered that civilian watchman to put the barricade on and told “Aap ab aandar bhi nahi ja sakte, gaadi khadi karo aur wapas jao aur jyada nautanki karoge to bachche ke samne hi tamasha banaunga”.

(vi) keys and denied entry etc. After that Security Officer told to go back to section and he assured that he will look in to the matter.”

4. It is the case of the applicant that in spite of his complaint made to the authorities, no action has been taken against the respondents, CCTV footage have been destroyed and they are trying to shield the culprits. The applicant approach the competent authority by submitting application for taking action and the grievance put forth by the applicant as indicated hereinabove vide his redressal of grievance application dated 22.10.2023 was scrutinized and considered by the competent authority. A detailed order was passed on the same by the HQ, Southwestern Air Command, Indian Air Force, VSN, Gandhi Nagar on 02.04.2024. After taking note of the grievance of the applicant in Para 4 of the aforesaid order, the following findings have been recorded in the speaking order in Paras 4,5,6 and 7:-

“ 4. AND WHEREAS, the above contentions raised by you have been duly considered by competent authority (AOC-in-C SWAC, IAF) in light of the material available on record, and the following is revealed:-

(a) On 10 Apr 23, HQ SWAC had elevated the security state and 5 FBSU was on Red alert. On 11 Apr 23 an

altercation took place between you and Cpl Sahu at Security Gate during the screening process of the personnel entering from the gate. Subsequent to the incident, you had provided a comprehensive brief on the incident in the presence of the Assistant Security Officer and Cpl SR Sahu, wherein, it came to the light that you were unaware of the elevated Red alert stated of the base despite your presence in your section on 10 Apr 23. Notwithstanding the same after a thorough review of the incident, Security Officer delegated the responsibility of scrutinizing the CCTV footage of the incident to one rep each from BTF and IAF (P). The reps subsequently after consultation with both i.e. you & Cpl SR Sahu reported that the matter been resolved. Hence, there was no further requirement of preserving the said CCTV footage of the incident, the matter being resolved amicably. Further, it has also emerged that Cpl Sahu had later also tender his apology to you for any inadvertent mistake committed by him in this matter.

(b) As per material available on record, it has also emerged that at the

time of incident, you did not stop for checking at the gate when signaled to stop by Cpl Sahu and you were forcibly stopped by the IAF(P) at the gate. The claim by you that you were not aware of the 'Red Alert' state, inspite of the same being announced in <sup>your</sup> ~~you~~ section the previous day, (as per your Sectionn Cdr) appears to be an afterthought. Stn appears to have taken lenient view on this, considering the whole circumstances and your mental state.

(c) It has also emerged that because of strict security measures at the security gate due to 'Red Alert' state and ignorance about the same as claimed by you, the misunderstanding appears to have taken place. Feeling aggrieved by the same, you submitted an application dated 17 Apr 23 for interview with Stn Cdr. The interview was granted to you by Stn Cdr on 29 Aug 23. Therefore, no further disposal of ibid application dated 17 Apr 23 by Stn was warranted. The delay in interview by Stn Cdr was mainly due to non-availability of yourself and the witnesses involved in this case. On 13 Sep 23 and 15 Sep 23 you were called by Stn Cdr and intimated that appropriate action has been taken

against Cpl Sahu. As the behavior on part of both the air warriors (you and Cpl Sahu) was found to be inappropriate and the allegation of misbehavior with your wife could not be proved, the representation dated 25 Sep 23 submitted by you was disposed of by Stn Cdr 5 FBSU <sup>via</sup> ~~via~~ a speaking order dated 30 Nov 23 with the direction to appropriately counsel both the air warriors i.e. yourself and Cpl SR Sahu IAF (P) by their respective Branch heads. Since, consequent to the interview with Stn Cdr, your grievance was apparently resolved, there was no further requirement of preserving the CCTV footage of the incident by Stn. Notwithstanding the same, acting on your application Stn Cdr has also cautioned the Security Officer for not preserving the CCTV footage in this matter.

(d) With regard to the non-receipt of disposal of the application dated 5 Apr 23 submitted by your wife to the AFFWA(L), since the said application was on the same matter which was already being processed by the Stn and repetitive in nature, no separate written disposal was given by AFFWA(L) on that application to your

wife. It is apparent that the whole incident happened primarily due to mis-understanding of the alert state of the station by you and the whole matter could have been handled more maturely by you as well as the Station.

5. Considering the entire facts and circumstances of the case the Stn has taken the actions of grant of interview, apology by Cpl Sahu, counseling of erring personnel, and caution to the Security Officer. The actions taken by the Stn are commensurate with the nature of incident and no illegality appears to have been caused in this matter.

6. AND WHEREAS, the AOC-in-C SWAC, IAF after duly considering the entire facts and circumstances of the case and the material available on record has rejected your application dated 22 Dec 23 being devoid of merit and lacking in substance.

7. NOW THEREFORE, your application dated 22 Dec 23 stands disposed of, accordingly.”

5. That apart, the documents available on record indicate that the applicant was granted personal interview in the matter with the Station Commander. He was also counseled and based on the report submitted by him on 25.09.2023 to the Station Commander again a speaking order has been passed by the Station Commander on 30<sup>th</sup> November, 2023, the same has been dealt with at the highest level and after

interview and counseling and taking an apology from the person concerned the matter has been closed. We find from the material available on record that on account of the Red Alert, an elevated security state was notified in the area and the entire incident took place at the time of screening process by the security personnels at the gate, these are matters which happened because of the strict security measures enforced in a state of Red Alert and in our considered view, in an ~~installation~~ <sup>institution</sup> like the Indian Air Force on account of security concerns things may have happened. The highest authorities have intervened into the matter, scrutinized everything, undertaken counseling interviews, have questioned the persons concerned, took their apology and have taken steps to ensure that such things do not happen. Once the authorities without any mala fide intentions have taken action looking into the totality of the facts and circumstances, in exercise of statutory jurisdiction with regard to redressal of service disputes under Section 14 of the Armed Forces Tribunal Act, 2007, we are not inclined to issue any direction in the nature of mandamus which is normally issued as a writ by the High Court exercising jurisdiction under Article 226 and 227 of the Constitution.

6. The prayer of the applicant to take disciplinary action against the offending officers in the peculiar facts and circumstances of the case is not proper and it is not appropriate for us in exercise of our limited jurisdiction available under Section 14 to enter into all these controversies, particularly, when the highest authorities have already looked into the matter and tried to resolve the issue amicably in the interest of the security and concern of the sensitive Air Force installation in the area.

7. Accordingly, in the facts and circumstances of the case, we are not inclined to interfere into the matter, we dispose of the matter without taking cognizance of the same as in our considered view the same does not call for any interference by us.

8. OA stands dismissed.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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