

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

OA 1837/2021 with MA 2704/2023

Lt Cdr Romeo Sharma (Retd) Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Neeraj, Sr CGSC for R 1-2, None for R-3

CORAM

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

ORDER

The applicant, vide the present OA makes the following prayers:-

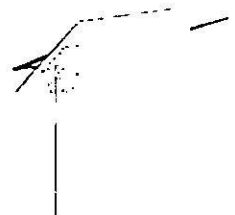
“(a) The Respondents be directed to rectify the anomalies in the service book of the applicant showing the release date as 12.10.2014.

(b) The Respondents be directed to take disciplinary action against R-3;

(c) Exemplary cost be imposed/levied upon the respondents for inordinate inaction on their part and 10% of which be shared and disbursed to the applicant by the R-3;

(d) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”

2. The applicant was released from Naval service w.e.f. 12.10.2014 vide IHQ MoD (Navy) letter RS/1109/SC/07 dated 08.08.2014 after completing 12 years and 02 months of service.



After his release the applicant asked for issuance of his service book. However, the same was not provided to him despite his repeated requests. Therefore, the applicant filed OA No.960/2019 before this Tribunal seeking a direction to the respondents to issue his service book. However, during the pendency of the OA, the respondents issued the service book. The applicant pointed out various anomalies in the service book. This Tribunal vide Order dated 05.04.2021 observed that in case the applicant is not satisfied with the rectification done by the respondents with regard to correction of anomalies, he was at liberty to file a fresh OA. Hence, the present OA.

2.2 Learned counsel for the applicant contended that pursuant to the directions of this Tribunal dated 05.04.2021, the applicant sent a legal notice to the respondents on 21.06.2021, stating the following anomalies in his service book and requested for rectification of the same in the records:-

“(i) The applicant was released from the Short Service Commission of the Indian Navy on 12.10.2014. However, the amended certificate of service mentions his date of release as 03.12.2014.

(ii) As pointed out in the letter 242/AA dated 07.10.2019, the certificate of service mentions, "Date of Release/Discharge from Service" whereas, it should state "Date and Type of Retirement – Release from Short Service Commission on 12.10.2014" as one for other retired SCC officers."

2.3 The applicant has also alleged malafide intentions of respondent No.3 in not rectifying the anomalies in his service book resulting in mental agony to him.

2.4 In support of his case, learned counsel for the applicant has also placed on record a copy of letter dated 08.08.2014 issued by Shri Sujit Goswami, DDOP (OA&R)-II, IHQ, Ministry of Defence(Navy) with respect to release of the applicant from service.

The said letter reads as under:-

"1. The competent Authority has approved release of the Lt Cdr Romeo Sharma (51874W), a SSC officer of 2002 batch, from service wef 12 Oct 14.

2. A 'No Demand Certificate' in respect of the officer is to be prepared and disposed of in accordance with the instructions contained in para 175, Financial Regulations for the Indian Navy.

3. The officer is required to undergo medical examination before the date of his release. Accordingly, arrangements be made for his Medical Examination Board in accordance with para 391 (a) (ii) of Regulations for the Medical Services of the Armed Forces(1962).

4. The officer is to be instructed to intimate his permanent Home Address after release from the service to DMPR(R&R)/IHQ of MoD(Navy) and DESA and any subsequent changes there to so long as he remains on the Emergency list.

5. There is no disciplinary, vigilance, judicial/non-judicial proceeding pending against the officer. In case the officer gets involved in any disciplinary, vigilance or judicial/non-judicial case prior to the date of his retirement, the detail thereof is to be immediately communicated to DPS/IHQ of MoD (Navy) who in turn shall intimate the same to the Controller of Defence Accounts (Navy), Directorate of Pay-&-allowances-and-Directorate of Personnel for review of the officer's-release if deemed necessary.

6. The officer may be informed accordingly."

2.5 It is further submitted that the letter of attachment was not received by the applicant from 12.10.2014 and all benefits were paid to him till 12.10.2014. The orders passed subsequent to 12.10.2014 were issued internally by the Indian Navy and the applicant was not privy to any such order/letter. It is alleged that the respondent No.3, due to his mala fide intentions, had issued the service certificate beyond the period of 12.10.2014. It is contended that had the applicant been in service beyond 12.10.2014, he would have been facing disciplinary proceedings for absenting himself from service. Therefore, the applicant has filed the present OA seeking a direction to the respondents to rectify the anomalies in his service book with respect to his date of discharge i.e.12.10.2014.

3. The respondents have filed a detailed counter affidavit and contended that the applicant was a Short Service Commission Officer of Electrical Branch of Indian Navy. He was commissioned

on 12.08.2002 for an initial period of ten years i.e. till 11.08.2012. Subsequently, he was granted extension till 11.08.2014 for a period of two years. Thereafter, the applicant applied for extension of service for further two years i.e. upto 11.08.2016. However, since there were adverse entries in his CR recorded by his Reporting Officer as well as a Board of Enquiry instituted against him on ground of maintaining illicit relationships and allowing unauthorized movement of unauthorized persons in military arrears, therefore, his release was held in abeyance and extension was granted for completion of Board of Enquiry till 12.10.2014 and subsequently upto 12.12.2014. The vigilance proceedings were completed and an order of administrative discharge was issued by IHQ MoD(N) vide order dated 03.12.2014. The said order stated as under:-

"The available records and documentary proof substantiate the misdemeanor on part of Lt Cdr Romeo Sharma (51874W). The officer had indulged in illicit relationship and allowed unrestricted movement of unauthorized persons in military areas even granting them access to high value assets of the service. This misdemeanor is unbecoming of the conduct of an officer and his retention in service is detrimental to the interests of Indian Navy."

4. According to learned counsel for the respondents, the applicant requested for issuance of service certificate on 08.11.2016 i.e. after two years of settlement of his case for which he was asked to provide relevant documents viz. photograph, contact number,

email id etc on 14.05.2018. The same were finally provided by the applicant on 26.03.2019. Thereafter, pursuant to the directions of this Tribunal in the earlier round of litigation, a fresh service certificate was issued to the applicant on 17.12.2019. However, the applicant raised objection with respect to the date of his discharge from service in his service certificate and asked for correction of the same, which has been denied by the respondents.

5. Learned counsel for the respondents contended that as per records held with IHQ MoD(N)/DOP(OA&R) the applicant was granted extension till 11.12.2014 vide its letter No.RS/1109/SSC/07 dated 08.10.2014. Therefore, the applicant was finally discharged from service on 03.12.2014. As a matter of practice Service Certificate is issued to an officer before his scheduled exit from service provided he provides the necessary documents viz. individual passport size photograph and family photograph, mob. Number, e-mail id and residential address. The applicant provided the correct photograph and other details only on 26.03.2019. The service certificate was issued when the complete and correct documents were made available i.e. on 24.07.2019. The applicant raised a few observations in the certificate issued to him. The same were rectified and a fresh certificate of service was issued

to him on 17.12.2019. Thus, the matter was finalized. However, the applicant again raised the issue on the date of his discharge and requested for an amendment to read the same as release from service w.e.f. 12.10.2014. The main prayer of the applicant has already been addressed by the respondents. However, the applicant has now brought in an issue which has already been settled in 2014.

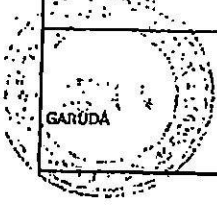
6. It is further contended that the applicant alleged certain malafide against respondent No.3 for deliberately delaying issuance of his service certificate. However, the same was denied on the ground that the applicant neither brought the issue to the notice of the appropriate authority nor he raised such issue in the earlier round of litigation before this Tribunal and no such documentary evidence has been placed on record to prove his stance.

7. We have heard the learned counsel for the parties and perused the documents available on record.

Analysis

8. The only issue before us is the date of discharge of the applicant. The Respondents have produced a P&C letter of IHQ MoD(N) No.RS/08887/DFS/2014 dated 03rd December, 2014 stating that the applicant be discharged from Naval Service with immediate effect by issue of necessary Gen form. However, the Gen

form produced before us has the date of occurrence (DoC) of 12.10.2014 and reads as under:-

IN (PAY) 236 A							GEN FORM
Casualty MISCELLANEOUS - RETIREMENT FROM ACTIVE SERVICE - RETIRED/RELEASE SSC OFFICER							
UNIT GARUDA							
GX No : 1402616/F		GX Date : 10-10-2014		ANPM : AN		Dt of Occ : 12-10-2014	
Maker : 21861D		Maker Date : 13-10-2014		Authorizer : 03567P		Authorize Date : 23-10-2014	
Por. No	Name	Rank	Leave Year	Accumulated Leave Days	Term, Days	Authority	
51874W	ROHEO SHARMA	LTCDR	2014	60	28	IMQ MOD(N) LETTER NO- RS/1109/SSC/07 DT 08/08/2014.	
Details							
<p>THE ABOVE MENTIONED OFFICER IS RETIRING FROM SERVICE VIDE IMQ MOD(N) LETTER NO- RS/1109/SSC/07 DT 08/08/2014. GRANTED 28 DAYS TERMINAL LEAVE INCONJUNCTION WITH 60 DAYS ANNUAL LEAVE OF 2014. TOTAL 88 DAYS. CLR DUE- 88 DAYS PHT ADDRESS- AG-1/75-A VIKASHPURI NEW DELHI- 110018 M.NO- 094418677213 EMAIL- kartavyanishth@gmail.com</p>							
						Issuing Authority S. N. YADAV MCA (AH) T. STAFF OFFICER FOR COMMANDING OFFICER INS Garuda	

9. From the above it is clear that the applicant was discharged from the Naval Services on 12.10.2014 although some extension was being sought by the respondents to complete the formality of disciplinary proceedings against the applicant. There is, however, no Gen-form on record to prove that the Gen-form issued to the officer on his final discharge was ever amended due to his extension in service till 03 December, 2014.

10. Gen-form is the final document which an officer gets from his last unit when he retires and all dates as mentioned in the Gen-form becomes effective date of the discharge of an officer. It is, therefore, established that the officer stood discharged from the Naval Service on 12.10.2014.

11. Keeping in view the above, the O.A. is partially allowed and IHQ MoD(N) is directed to amend the discharge date of the applicant to be read as 12.10.2014 and a new Service Certificate be issued to him incorporating the amended date of discharge within a period of three months from the date of receipt of a copy of this Order.

12. Pending MA(s), if any, stands disposed off.

13. No order as to costs.

Pronounced in the open court on ^{ph} ~~27~~ day of March, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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