

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

OA 1719/2024

Ex Rect Sonu ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate with  
Ms. Prachi Chaturvedi, Advocate  
For Respondents : Mr. R S Chhillar, Advocate

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

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

- (a) To direct the respondent to re-instate the Applicant in service with service seniority, by considering his acquittal from the charges based on which he was dismissed from service vide order dated 23 Dec 2013 (Annex-A1/Colly); and/or
- (b) To direct the respondent to granted him continuity of service for the entire period he remained out of employment i.e., from the date of his termination till his reinstatement and the entire period shall be treated as continued in service for the purpose of all other service benefits; and/or
- (c) Any other just and equitable order in the interest of justice may kindly be passed.

2. The facts in brief indicate that the applicant joined the Indian Army on 17.06.2011 and was dismissed from service by virtue of the provisions of Section 20(3) of the Army Act read with Rule 17. Section 20(3) empowers the competent authority to dismiss an officer and Rule 17 contemplates the provision for dismissal on the ground of conduct that has led to conviction in a criminal court or a court martial after the issuance of a show cause notice.

3. It is the case of the applicant that on the ground that he had obtained an appointment by producing fraudulent documents, he was handed over to the civil police after serving in the Army between 17.06.2011 and 23.12.2013. The civil police took him into custody on 25.12.2013. He was produced before the Ld. Metropolitan Magistrate who released him on bail and finally he was put to trial in Criminal Case No. 1878/2014 for the offences under Sections 420, 467, 468 and 471 IPC. After being subjected to trial by an order passed on 02.02.2024, he was acquitted of all the charges by the Court of the Additional Chief Metropolitan Magistrate, Roorkee, District Haridwar. When he was acquitted of the charges, he sought reinstatement in

service and when the same was denied he has invoked the jurisdiction of this Tribunal.

4. It is the case of the applicant that on the ground of producing false and fabricated documents, he was proceeded against and after the issuance of a show cause notice he was dismissed from service. After his dismissal from service he was handed over to the police authorities and an FIR was registered against him which has now resulted in his acquittal. Inter alia contending that once the allegations of seeking employment by fraudulent or fabricated documents were found to be false and in the criminal case after trial the applicant was acquitted of all the charges he is entitled to be reinstated in service. In support thereof the learned counsel invites our attention to the judgments of the Hon'ble Supreme Court in the case of *Mannilal v. Premlal* AIR 1971 SC 330, *Dilip Kumar Sharma and others v. State of M.P* AIR 1976 SC 133 and an order passed by the Madhya Pradesh High Court, Indore Bench in the case of *Jagannath Sodha v. State of M.P*, WPC No. 4719/2020 decided on 30.06.2023 to say that when the termination of service is based on conviction or allegations levelled in a criminal case and when the applicant or the employee is acquitted of the allegations or the criminal

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charges by the criminal court on trial he is entitled to be reinstated in service as his disqualification attached to his appointment is wiped out in view of his acquittal in the criminal case. Reliance is also placed on a judgment of the Delhi High Court in the case of *Sat pal v. Chief of Army Staff*, 2002 (1) S.C.T. 1013 in support of the aforesaid contention.

5. The respondents have rebutted the aforesaid assertion of the applicant and it is their case that the applicant was enrolled in the Bengal Engineering Group and Centre, Roorkee on 17.06.2011 from the Independent Recruiting Office (IRO), Delhi Cantt, as a soldier Clerk (General Duty). After his recruitment the Military Intelligence/MI-10, vide letter dated 11.06.2013, indicated that certain documents as detailed hereinunder produced by the applicant at the time of recruitment were found to be fraudulent. The fraudulent documents produced are:

- (a) The house address of the applicant was not found to be correct as per the statement given by the house owner to the Military Intelligence Branch/MI-10.
- (b) Education documents and domestic certificates were not attested by the Principal of Sarvodaya Kanya Vidyalaya, Molar Band (As per the statement of the

Vidyalaya), the domestic certificates do not bear the signature of the Principal.

6. In view of the aforesaid fraudulent act found in the communication made by the Military Intelligence on 11.06.2013 a show cause notice was issued to the applicant on 11.07.2013. Finding his reply to be nothing but a cover-up to defend himself, he was dismissed from service. Thereafter in accordance with the Army Act and the policies applicable to the aforesaid forgery committed, the applicant was handed over to Police Station Roorkee, District Haridwar and an FIR was registered against him. He was arrested and it is an admitted position that he has been acquitted of the charges. However the respondents submit that as the applicant has been dismissed from service on account of the fraud committed by him no case is made out for interference.

7. While considering the matter on 15.01.2015 we found that the dismissal of the applicant was carried out after issuing the show cause notice and prima facie, as he had been acquitted, therefore, he is entitled to be reinstated in service. After such reinstatement the respondents, if permissible under law, can take action against the applicant for service misconduct. The respondents were directed to

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seek instructions in the matter and today on instructions we are informed that the matter is under examination by the higher HQs and appropriate orders will be passed for which eight weeks' time is sought. The communication received by us indicates that a speaking order proposing to discharge the applicant from service is proposed to be passed. Be that as it may as the respondents have not indicated under what law the action taken against the applicant is now sustainable in view of his acquittal in the criminal case we proceed to decide the matter in accordance with the law.

8. Admittedly the applicant was dismissed from service after the issuance of the show cause notice and the allegation against the applicant which formed the basis for taking action against him is the act of fraud committed by him in submitting false and fabricated documents. After issuing a show cause notice to the applicant and dismissing him the applicant was immediately handed over to the police authorities. The applicant was arrested and thereafter released on bail by the competent criminal court. He was arrested by the police authorities on 25.12.2013 and granted bail on 17.02.2014. He was put to trial for offences under

Sections 420, 467 and 468 IPC and was acquitted by judgment dated 02.02.2024.

9. The judgment indicates that the applicant was accused of joining the Army by producing documents found to be false and fabricated. The prosecution failed to prove that the applicant produced forged documents for residence and school certificates. In the absence of evidence the applicant was honourably acquitted. Now the only issue before us is what relief the applicant is entitled to in light of his acquittal.

10. It is a well settled principle of law that when an employee is dismissed from service due to involvement in an offence the employer may either prosecute him before a criminal court or take departmental action. Here the applicant was criminally prosecuted and pending trial was dismissed from service. Since he has now been acquitted of the allegations after criminal trial, the respondents must reinstate him with all consequential benefits. However after such action being under taken if, in the facts and circumstances of the case the law i.e. Army Act & Rules or any other statutory provision permits the respondents to

proceed and taken action in spite of the acquitted in the crime case they may proceed in accordance with law.

11. Accordingly we allow this application, quash the dismissal order and direct the respondents to reinstate the applicant with back wages and all consequential benefits. The respondents shall comply with this order within two months of receiving this order.

12. No order as to costs.

13. Pronounced in open Court on this the 25<sup>th</sup> day of March, 2025.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[MS. RASIKA CHAUBE]  
MEMBER (A)

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