

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

A..

OA 331/2018

Ex Cpl Sachin Kumar Solanki Applicant
Versus
Union of India & Ors. Respondents


For Applicant : Mr. Manoj Kumar Gupta, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate
for R 1 & 2

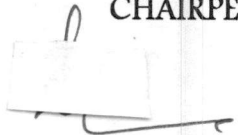
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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN SHASHANK SHEKHAR MISHRA, MEMBER (A)

ORDER
17.10.2025

This case was heard by a Bench consisting of the Hon'ble Chairperson and Lt Gen Shashank Sekhar Mishra and reserved for judgment. Thereafter the judgment was dictated, seen by LT Gen Shashank Sekhar Mishra and in view of the provisions of Rule 98(1)(ii) of the AFT (Practice) Rules 2009 on the basis of the authority given by Lt Gen Shashank Sekhar Mishra this judgment is being pronounced today by the Chairperson.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[LT GEN SHASHANK SHEKHAR
MISHRA]
MEMBER (A)

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ORDER

Challenging an order dated 02.12.2019 Annexure (A-1) whereby the Competent Authority exercising its powers available under Section 20 (3) of the Air Force Act 1950, has dismissed the applicant from service. The applicant has filed this application and challenge is made to the same on various grounds.

2. Facts in briefs indicate that the applicant was enrolled in the Indian Air Force on 30.03.2011 and was allotted the trade of Communication Technician and after successful completion of his training he was posted to 5 TAC Tezpur (Assam). Between April 2012 to March 2016, the applicant served in Assam area and according to applicant while so performing his duties, he came into

contact with various other Army officials with whom he had interacted. It is the case of the applicant that in December 2014 his wife was in the family way and he took her to the Base Hospital, Tezpur. According to him, as proper treatment was not given there, therefore, he had to take her to his home town, i.e., Agra (U.P) where he was blessed with a son. The delivery of his wife was said to be disturbing experience to him. It is contented that the applicant was in need of help, the Air Force authorities failed to provide him the medical assistance. The applicant worked in various organisational units of the Indian Air Force. He proceeded on leave from 24.12.2016 to 22.01.2017. On 21.01.2017 while undertaking return journey alone from his home to his duty station, it is a case of the applicant, that he was feeling bad he was worried about his father, who was a depressive patient for the last two years. He had problem as his mother met an accident, both his parents were under treatment, his wife had to stay back with his ailing parents and it is the case of the applicant that his mind was preoccupied with these problem. He was feeling lonely, mentally upset and depressed. He had a feeling that he should be with his parents they required his presence and as a consequence of all these situations, he is said to be have been feeling home sickness.

3. While travelling in the train, it is the case of the applicant that a group of people in the compartment travelling along with him were discussing the issue of discriminations and, demoralization in service. According to the applicant to divert his mind and attention, he opened his facebook account and on going through various posts on the facebook, which included videos of other services negative thoughts started coming into his mind. When he reached Gandhinagar, being influenced by a video on the working of the BSF and Army and because of immaturity, it is said that the applicant recorded a video in uniform on his mobile. According to the applicant's own showing this happened due to influence and inappropriate knowledge about service information and his mental instability. Even though he had no motive to circulate the video on the social media but after recording the video on 21.01.2017, the said video was unfortunately uploaded on facebook by the society children while playing game in his mobile phone. It is the case of the applicant that the uploading of a video was done by the society children and he was not aware of the same. However on the same evening through his father he came to know about uploading of the said video on social media. He immediately not only deleted the video but also left a message that the video should not be circulated. However according to the applicant, without his knowledge, this

video was unfortunately uploaded in youtube and whatsapp of many unknown user.

4. It is the case of the applicant that he recorded the video, which was so uploaded, in frustration and circulation of the same was never in his mind. According to him the video was unfortunately and inadvertently uploaded on social media by the society children. Whatever was recorded in the video was because of the mental state of the applicant a further asserts his contention that he has lot of respect for service and cannot think of harming or down grading the service even in his wildest dream. However, be as at it may be, it is the grievance of the applicant that on the basis of the uploading of the aforesaid video and on account of the act committed by him, the matter was reported to the Competent Authority and on 29.08.2017, a show cause notice was issued to him vide Annexure (A-4) and in the show cause notice, the following allegations were made against him;-

"2. AND WHEREAS; you uploaded a video on social media on 22 January 2017 making the following allegations with respect to the service and its conditions.

(a) Officers are getting full free rations whereas Jawans are getting only Rs.3000/- to 3500/-. This money is not enough to purchase milk and water.

(b) Officers are getting stitched uniform and are being delivered to their residence by logistics whereas Jawans are not getting the same. You have not been issued with shoes for last two years from logistics.

(c) Officers are more educated for that they are getting more payment, but why difference in MSP? Officers are getting Rs.15,000/- and Jawans are getting Rs.6000/- as per 7th pay commission.

(d) While Officers proceed on T/D, they are going by own car and claiming the same and staying in hotel whereas, Jawans are proceeding on T/D without reservation and they sit near the toilet and travel.

(e) When attending any party or function, Officers family are called with Ma'am whereas, Jawans families are ignored and we are ashamed of taking our wives in front of Officers' wives.

(f) Government pays money for their job, then why so much difference between officers and Jawans. Please look into the matter;”

Before issuance of the show cause notice a Court of Inquiry conducted at SWAC (U) AF on 24.01.2017 and in the Court of Inquiry it was indicated in Para 3 of the show cause notice as under:-

“AND WHEREAS; a Court of Inquiry was assembled at SWAC (U), Air Force, on 24 January 2017 and subsequent days to inquire into the circumstances under which you improperly uploaded a video on social media on 22 January 2017. The said CoI found you blameworthy on the following counts:-

(a) *Posting Video on social media in uniform and discussing service issues contrary to IAP 3903 Chapter VIII Para 11 and AFO 17/2015 Para 5 annexure ‘F’.*

(b) *Not following proper channel for redressal of grievances contrary to Air Force Regulations, Chapter XII- Discipline, Section 2- Redress of Grievances, Para 621”;*

5. It was pointed out to the applicant in the show cause notice that this act of uploading the said video on 22.01.2017 has violated Para 11 of Chapter of IAP 3903, which stipulates as under:-

“AF personnel are to exercise extreme caution while participating in social networking sites like Orkut, Facebook, Google Buzz, LinkedIn, Hi 5, Ibibo etc and are not to upload/ post any official/ service information about defence, or any other information or data of this nature concerning service subject. Due precautions are to be taken while uploading personal profiles on public/ social networking sites to ensure that locations, ranks, photographs in uniform, unit details etc are not provided;”

Finally it was informed to him that the act was violative of Para 5 of AFO 17/2015 which stipulates as under;-

“All personnel are to be cautious while interacting through social networks like Orkut, Facebook, Twitter ect., so as not to reveal any information of security value and also to exercise due care to ensure that their family members do not divulge any information of security value through social networking. Dos and DONTs have been explained at Annexure ‘F’ to the said AFO;

The applicant was directed to show cause. The applicant submitted his reply to the show cause notice vide Annexure A-4 on 17.09.2017, and thereafter by the impugned speaking order, the applicant was dismissed from service. Challenge to the dismissal from service has been made and it was argued by Shri Manoj Gupta, learned counsel for the applicant, that this is a wrongful dismissal, the applicant has not committed any offence.

6. The applicant has been falsely implicated. He has served the Air Force with full dedication. Before taking action it is stated that the competent authority failed to consider the fact that on 21.01.2017, when the applicant has recorded the video on his mobile, he was upset and was in a very bad state of mind due to prolonged illness of his parents. He was feeling home sickness and therefore, there was no ill motive or ill intention in doing so. It was argued by learned counsel that the COI was not conducted properly. He deleted the video within few minutes on coming to his notice as informed by his father. It was argued that reply to the show cause notice was not properly considered, his the defence indicated in the show cause notice was not at all analysed or taken note of by the

Competent Authority. Referring to the statement of witness No. 2 in the COI Warrant Officer AK Singh, Radio Technician, to the effect that the applicant was a sincere and hard working technician, so also the statement of witness No. 3 Wg Cdr A K Sharma, to say that the applicant was a disciplined soldier and further referring to the deliberations of the COI at Annexure (A-3), it was argued that without proper investigation, without conducting a proper inquiry into the matter and without taking note of the crucial defence of the applicant that he had deleted the message immediately when it came to his notice, the impugned punishment was imposed. It is further stated by learned counsel that the applicant submitted a mercy petition to the competent authority vide Annexure (A-6) on 18.12.2017, but the same was dismissed by the competent authority without proper consideration. In sum and substance, it is the argument of the applicant that action taken against the applicant is without due application of mind, without considering the mental condition and attitude of the applicant and even the Chief of Air Staff vide Annexure (R-2) dated 17.05.2018 dismissed the mercy petition without proper consideration.

7. Learned counsel for the applicant argued that apart from the fact that no COI was conducted as the applicant is held guilty of offences under section 65 of the Air Force Act read with

Section 42 (e) of the Air Force Act without considering his defence mental attitude by taking administrative action in violation of the rules a harsh punishment has been imposed on the applicant. Placing reliance on a judgment of the Hon'ble Supreme Court in the case of "*Ranjit Thakur vs Union of India and Ors.* 1987 AIR 2389, 1988 SCR (1) 512" and referring to Para 5, of the aforesaid judgment, it is the case of the applicant that the doctrine of proportionality in the matter of imposing punishment has been violated and therefore it is a fit case where interference should be made and the action of the respondents be quashed particularly when the applicant did not have any intention to violate any rules, policy or guidelines of the Indian Air Force.

8. Respondents have refuted the aforesaid and argued that the applicant was issued with a show cause notice as detailed hereinabove and the allegations made against the applicant in the show cause notice were with regard to uploading of the video while returning from leave on 21.01.2017. Respondents invite our attention to the reply to the show cause notice submitted by the applicant on September 2017, particularly the admission made by the applicant in Para 3, 4 & 5 of the show cause notice. They also referred to the mercy petition initially submitted by the wife of the applicant vide Annexure (A-6) and the admission made by her with

regard to the uploading of the video by her husband so also the mercy petition of the applicant by referring to Para 3 of the mercy petition Annexure (A-6) dated 18.12.2017.

9. Learned counsel tried to argue that the applicant admits uploading of the video but gives two versions with regard to the uploading of the video in reply to the show cause notice. In Para 5, he admits that after recording the video during the train journey he uploaded the same in his facebook account and therefore when he came to his senses and returned to his normal condition, he removed the uploaded video. whereas in the pleadings before this Tribunal and in the mercy petition he speaks about the video being uploaded on 27.01.2017 by some children in the society, whom he gave his mobile for playing video games.

10. Respondents argue that the applicant has come out with different versions. They took us through the COI the statement recorded by witness in the COI, the findings of the COI and argued that under Section 65 of the Air Force Act 1950, violation of good order and maintenance of Air Force discipline is a statutory requirement and it is argued that the applicant is guilty of the acts of commission and omission performed by him which violates the provisions of Section 65.

11. That apart respondents pointed to the insubordination and obstruction and neglect to obey general, local and other orders of the competent authority as provide under Section 52 (e) of the Air Force Act. They also refer to violates to IAP 3903, Para 11, and the provisions of Air Force Order No. 17 of 2015 i.e., Clause 3 and the DOs and DONTs clause B, D, F, Q, R & S in Annexure-F appendix to the Air Force Order. Placing reliance on all these provisions learned counsel argued that applicant is a member of a disciplined force he is supposed to maintain discipline and follow orders and commands of the higher authorities and in the light of the provisions of Article 33 of the Constitution, he is required to maintain high standard of discipline in the discharge of his duties. It is the case of the respondents that the applicant admitted his guilt not only in the COI but even in the administrative procedure followed while taking action after issuance of show cause notice. He gave two different versions about the uploading of the video. A person with a state of mind like the applicant and who can at the spur of a movement act in a manner which is totally unbecoming of a man in uniform, particularly a Technical official in the Indian Air Force if permitted to continue in service would jeopardise and compromise on the national security and interest of the nation and the entire defence establishment and therefore taking in view the totality of the

circumstances, it is argued that the appropriate action has been taken against the applicant and the same does not warrant any consideration. It is the case of the respondents that an organisation like Indian Air Force which has to uphold and protect the national interest and security cannot have confidence in such an employee. The Indian Air Force has lost complete confidence in the employee and he is not fit to be taken back in service. Accordingly respondents seek for dismissal of this applicant.

12. We have heard learned counsel for the parties at length and perused the material available on record. As far as the factual position is concerned, the same is an admitted position. It is a fact that the applicant while returning from leave, and travelling in the train on 21.01.2017 made the video on his mobile phone and it was uploaded in the facebook account of the applicant. In the COI conducted against the applicant, also the applicant admitted this position. Witness No. 2 in the COI Warrant Officer AK Singh, Radio Technician admits that on 23.01.2017, he received a call from the server room to inform him that the applicant has uploaded a video on the facebook account in uniform and information regarding the same was sought for. The witness called the applicant who came to him and admitted that he had uploaded the video shot by himself in a combat uniform on 22.01.2017 at 17:00 hours on the social

networking site facebook. The same statement and admission is also made by the applicant before witness No 2 and is also confirmed by witness No. 3 Wing Commander AK Sharma. The COI came to the conclusion that in uploading the video the applicant has violated not only the provisions of Air Force Orders 17/2015, but also the provisions of IAP 3903. Air Force Order 17/2015, which prohibits, for security reasons sharing of information in the manner done by the applicant Clause 3 (Annexure F) clause B, D, F, Q, R, & S of this Air Force Order reads as under:-

“(b) Avoid putting your photographs in uniform on the internet as it can be misused or exploited.

(d) Whilst posting information on social networking sites that are publicly accessible, it is advisable to keep the information generic, like restricting information on location to geographical region etc.

(f) Always advise your colleagues about the perils of putting unrestricted official information on the website and report breaches of security to your superiors.

(q) Do not post anything which is against the officially stated position of the organization or govt. Also do not show affiliations with nationals and organizations with which there are no official or diplomatic dealings and which can be a cause of embarrassment to the organization or Govt.

(r) Do not upload any ‘service information’.

(s) Do not upload any views or information on any ‘service’ subject.”

Similarly, Para 11 of IAP 3903 reads as under:-

“Social Networking. AF personnel are to exercise extreme caution while participating in social networking site like Orkut, Facebook, Google Buzz, LinkedIn, Hi 5, iBibo etc and are not to upload / post any official/ service information, information about defence, or any other information or data of his nature concerning service subject. Due precautions are to be taken while uploading personal profiles on public / social networking sites to ensure that locations, ranks, photographs in uniform, unit details etc are not provided. Internet officials PCs are not to be utilised for surfing Social networking sites. Guidelines on conduct of air warriors on

social networking site have been circulated (Item No. 12 Appendix-B).

13. From the aforesaid it is clear that the applicant has acted in a manner which is prohibited by various provisions of Air Force Order 17/2015 particularly clause B, D, F & Q of Annexures to the Air Force Order and also has violated Para 11 of the IAP 3903 reproduced hereinabove. These violates amount to offences under section 65 which mandates a person subject to Air Force Act to maintain good order and Air Force discipline as prescribed by the rules and also the provision of Section 42, i.e., insubordination and obstruction particularly Clause 'E' wherein any act which has the effect of disobeying any general, local or other order is an act of indiscipline. The applicant has clearly violated the mandate of the provisions of Air Force Order 17/2015 and IAP 3903 as indicated hereinabove.

14. The learned counsel for the applicant gave the justification for his acts of commission and omission by contending that he deleted the video immediately when his father informed about it in the evening of 22.01.2017 and in reply to the show cause notice in Para 3, 4 & 5 which have been reproduced, hereon order;

"3. I was on leave from 24 Dec 16 to 22 Jan 17, when I started my return journey by 21 Jan 17. I was feeling so bad because of my father is a depression patient and he is under medical treatment approximately since last two and half years my mother also had an accident just before my leave during morning walk and she is also

under medical treatment and I dropped my family at home for take care of my parents.

4. Due to all this I was so lonely, upset and was thinking that I must be with my parents when they required me most. I was feeling home sickness. So all this issues was roaming in my mind and made me mentally upset.

5. At the same time during the journey, one group of people was discussing about discriminations of services and demoralized topics. Just after that I opened my face-book account to divert my mind but unluckily there also saw the earlier posted video of other services and it negatively influenced me. That influence, inappropriate knowledge about service information categorization and mental instability at particular time turned me upto the mishap. Soon as I came back to my normal condition, I realized that I must stop it and then I removed the uploaded video from my account and posted a message 'not to circulate this video'."

There is a clear admission by the applicant to the effect that he had recorded the video on his mobile phone and had uploaded it in his facebook account. Even in the mercy petition submitted by his wife vide Annexure (A-6) and by the applicant vide Annexure (A-6) he admits about the same. However, he gives two versions in reply to the show cause notice in Para 5 he admits about uploading the video himself but in the pleadings and in the mercy petition he shifted the blame on children of the society. Be that as it may be the fact remains that the applicant has uploaded the video and in the video which is about five minutes duration, which was uploaded in the facebook transferred and circulated through Whatsapp and Youtube, the applicant had committed the acts as detailed in Para 2 (a) to (f) in the show cause notice. The issue therefore is, based on these circumstances can interference be made into the matter on the grounds canvassed by the applicant. The first ground canvassed by the applicant was that he deleted the video within minutes of its

coming to his notice. However, the fact remains that the applicant did make a video and uploaded it in his facebook account, it was circulated in the youtube and whatsapp account of various groups as a result the applicant had violated and breached the provision of Air Force Order 17/2015 and IAP 3903 and conduct the offences under Section 65 and 42 (E) and the Air Force Act. Merely because the applicant takes an excuse about his mental condition, when he did this, the same cannot be an excuse for an officer in uniform bound by the provisions of the Air Force Act, to act in a manner which is nothing but an act unbecoming of a man in uniform.

15. The applicant while in service being a Technical Officer dealing with various information available to him in his capacity as a Technical Officer can always in such a mental condition act in a manner which can jeopardise or adversely affect not only the working of the Indian Air Force but also create issues of national security and may adversely affect the defence of the country.

16. While dealing with the acts of commission and omission conducted by a man in uniform, liberal approach cannot be made particularly when the security of the nation is involved. That being so, the contention of the applicant that his state of mind has not been taken note of while imposing punishment upon him and the fact that he deleted the video within few minutes would be of no consequence

for the simple reasons that commission of violation and the requirement of the Rules and Regulations by the applicant is clearly made out.

17. The second contention was that applicant's reply to the show cause notice was not considered, and the COI ordered. The applicant himself had admitted the act alleged against him and the Competent Authority evaluated the same in detail in two speaking order. One, the impugned order before us i.e., Annexure (A-1) dated 02.12.2017 and also in the order dated 17.05.2018 Annexure (R-2) issued by the Chief of the Air Staff while dealing with his mercy petition, both the authorities have considered the matter in detail. On a totality of the circumstances, the provisions of the rules and regulations of Air Force Instructions and the findings recorded that the petitioner has more than 2,000 followers in the facebook and video has been widely circulated not only in the facebook but in the whatsapp. During the course of hearing the youtube recording of the applicant, which is still available in the youtube, was shown to us by the respondents.

18. In view of the above we are of the considered view that the contention of the applicant that reply of the show cause notice was not considered have no consequence on account of the material available on record and the admission and submission of the

applicant not only in reply to the show cause notice, the COI, even in the pleadings before us in the original application, except for putting two versions as to who uploaded the video in the facebook, the applicant had admitted that it was uploaded by him initially, but while filing the original application before this tribunal in the year 2018 and while submitting his mercy petition after filing of the application he introduced a story to say that the children of the society uploaded the video. Whereas, his initial submission were that it is he who uploaded the video. That being so, we find that consideration of the defence of the applicant to the show cause notice has been effectively done by the competent authority before taking action against the applicant.

19. The second contention advanced was that for punishing the applicant under Section 65 and 42 (E) of the Air Force Act, a proper court martial should have been conducted and after conduct of the court martial, after cross examination of the witnesses and other aspects of the matter only the punishment could be given. It was argued before us that court martial was not conducted against the applicant. The applicant right to defence has been prejudiced and in violation to the principles of natural justice without granting him proper opportunity action has been taken against him. We are unable to accept the aforesaid contention.

20. Under the Air Force Act, the Army Act and the Navy Act in cases when acts of commission and omission are alleged against the member of the forces the investigation into the same is done by conducting a COI. If a prima facie case is made out in the COI then the option available to the Competent Authority is to either take administrative action if the circumstances so permits or to hold a regular trial by Court Martial. In this case when the report was received with regard to the uploading of the video in the social media network by the applicant, a COI was conducted and in the COI the applicant himself admitted the position that he had prepared the video and uploaded it. His only defence was that because of his state of mind it happened. Once this was the defence of the applicant in the COI, the decision taken by the competent authority to proceed administratively in accordance with the provisions of Section 20 read with Rule 18 of Air Force Act cannot be found fault with. Even otherwise if the applicant felt that he was entitled to a enquiry and trial by a Court Martial then in reply to the show cause notice he could have challenged the action of the COI and sought for a trial by Court Martial.

21. On the contrary, he admitted his guilt in reference to the show cause notice and gave justification for his action. After having admitted his acts of commission and omission on two occasions and

finally when he challenged the action before this Tribunal in the proceedings under Section 14, in the original application filed, the applicant has narrated the same story, which was his defence in the show cause notice, i.e., because of his state of mind he committed the offence. The only difference is for the first time in the pleadings was that instead of admitting that he himself uploaded the video in his facebook account as was done earlier, he now shifted this blame on the children of the society. This story seems to be an afterthought, and invention for raising a defence before this Tribunal, finally after taking liberty from this Tribunal the applicant submitted the mercy petition and after submitting the mercy petition on 12.02.2018 before this Tribunal, he requested that directions be issued to the competent authority to decide his mercy petition. Vide order passed on 12.02.2018 {Annexure (R-1)} the respondents were directed to decide the mercy petition, and that is how the mercy petition was decided on 17.08.2018 on directions of this Tribunal. In the mercy petition also the applicant had clearly admitted the position in Para 3 that he had made the video and the children of the society uploaded it in the facebook account. From the aforesaid violation of fact we are of the considered view that the consistent stand of the applicant clearly indicates that he is responsible in the case of commission and

omission and merely because a regular Court Martial was not conducted no prejudice has been caused to the applicant.

22. That apart it was the applicant himself who admitted the fact of recording of the video in his mobile phone and its uploading in his facebook account. If that be the position and if no prejudice was caused to the applicant merely because a court martial was not conducted and instead as provided under the statutory provision and an administrative action is taken by the competent authority in the peculiar facts and circumstances of this case, we see no illegalities committed in the matter violating the principles of natural justice or grant of opportunity to the applicant. Accordingly we find that action has been taken by the respondents in accordance with the requirement of law, proper procedure has been followed and the same does not call for any interference. Finally the submission of the applicant was to be effect that the punishment imposed is too harsh and dis-proportionate to the acts of commission and omission alleged against the applicant and in support thereof he relies upon Para 5 of the judgment rendered by the Hon'ble Supreme Court in the case of "*Ranjit Thakur*" (supra). Para 5 of the judgement in the case of reads as under :-

"Judicial review generally speaking, is not directed against a decision, but is directed against the "decision making process". The question of the choice and quantum of punishment is within the

jurisdiction and discretion of the Court-Martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the Court-Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review. All powers have legal limits. [522G-H; 523A-C] Council of Civil Service Unions v. Minister for the Civil Service, [1984] 3 Weekly Law Reports 1174 HL and Bhagat Ram v. State of Himachal Pradesh, A.I.R. 1983 SC 454 referred to. In the instant case, the punishment is so strikingly disproportionate as to call for and justify interference. [523G] The Court order set aside. The writ petition in the High Court allowed, and the impugned proceedings of Summary Court-Martial and the consequent order and sentence quashed. Appellant entitled to be reinstated with all monetary and service benefits. [523H, 524A]”

23. A perusal of the aforesaid principle goes to show that the question of choice and quantum of punishment is within the jurisdiction and discretion of the competent authority and the sentence has to meet and suit the offence and the offender. It should not be vindictive or unduly harsh. In the case of “*Ranjit Thakur*” the Hon’ble Supreme Court was dealing with a case where a soldier who was directed to imprisonment of 28 days on account of unauthorised absence, refused to take food when served to him on one occasion and when he was dismissed for the same the observations made by the Hon’ble Supreme Court. On the contrary the case at hand is the case of a Technical Officer in the Indian Air Force who has acted in breach of Army orders and instructions and the breach committed by him is a clear violation of the laid down norms and an act of unbecoming an officer in uniform.

24. Even though the act may be condonable in normal circumstances but when such an act is done by an officer holding a important sensitive post with regard to the defence of the country and if such an officer dealt with the leniently, possibility of his acting in the same manner on account of his mental attitude in future cannot be ruled out and if after taking all these into the consideration the competent authority took a decision to dismiss him from service. This court cannot substitute its decision with that of the competent authority in the peculiar facts and circumstances of the case. The competent authority of the Indian Air Force including the Chief of the Air Staff have dealt with the issue, have gone into details of the various aspects of the matter and finding the applicant to be not fit to be retained in service have taken the impugned action. This decision in our considered view is a decision taken after due consideration of the various aspects of the matter including the issue of loss of confidence of an employer in retaining such an employee in service and once there is no violation in the statutory rules, irrationality, arbitrariness or unreasonableness in taking such a decision, then within the limited scope of judicial review of an administrative action, we cannot interfere into the matter. In our considered view in the fact and circumstances of the case as discussed hereinabove in the matter of proportionality of

punishment, we are not inclined to go into the matter except to say that the applicant if he feels may submit his mercy petition to the President of India or the Chief of the Air Staff for the purpose of converting his dismissal to that of discharge from service, so that the dismissal will not come as impediment or prohibited in the matter of his taking civil employment in any civil organisation or pursuing his career in any civil establishment. Finding no case made out for any interference. We dismiss the petition.

25. No order as to costs.

26. Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on this 17th day of October 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN SHASHANK SHEKHAR MISHRA]
MEMBER (A)

/AK/