

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

OA 2414/2023

Ex Sep Nivas Dattatraya Patil **Applicant**
Versus
Union of India & Ors. **Respondents**

For Applicant : Mr. Nishad LS, Aby Abraham &
Aditya Verma, Advocates

For Respondents : Mr. Aseem Kr Sahay, Advocate

Order reserved on 03.09.2025

CORAM

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

ORDER

Invoking jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant seeks reinstatement in service and quashing of Annexure A-1 order dated 17.06.2010, in view of his acquittal in a criminal case decided by the V Additional Civil Judge and Judicial Magistrate First Class (JMFC) at Belagavi on 13.02.2023 vide Annexure A-4.

2. Facts in brief indicate that the applicant participated in a recruitment rally which was conducted by the Maratha Light Infantry Regimental Centre (MLIRC) at Belagavi on 07.07.2009. Based on his performance, in the

recruitment rally on 14.08.2009, he was enrolled in the Army by the Commandant of Maratha Light Infantry Regimental Centre (MLIRC). At the time of recruitment, the applicant submitted various documents including his educational certificate bearing No.G-2739770 and a mark sheet of having passed the examination from the Maharashtra State Board of Secondary and Higher Secondary Education, Kolhapur, in support of his educational qualification and date of birth. It is the contention of the applicant that after the enrolment, the documents were sent for verification in November, 2009 to the Maharashtra, State Board of Secondary and Higher Secondary Education, Kolhapur and the said authority indicated that the mark sheet, date of birth, School Number and the Center Number in the mark sheet and the certificate submitted by the applicant do not tally with the office record of the Education Board. Based on the aforesaid information received on 15.03.2010, a show cause notice was issued to the applicant on 11.05.2010. The applicant submitted his reply to the show cause notice and on 17.06.2010, he was dismissed from service

on the ground that he has obtained recruitment through fraudulent means. Based on the complaint and after dismissal, the applicant was handed over to the Camp Police Station Belgaum which registered a criminal case against the applicant because of his involvement in the fraud committed. The charge sheet was filed after investigation and inquiry by the police authorities i.e. the Camp Police Station Belgaum and the applicant along with one Dinkar Pandurang Magadum, now dead, were charged for having committed offence under Sections 420, 465, 468, 470, 471 r/w section 34 of the Indian Penal Code in the court of Vth Addl. Civil Judge and Judicial Magistrate 1st Class, Belagavi. The trial was conducted. In the trial about 15 witnesses were examined and more than 94 documents were exhibited. Finally, by a detailed judgment rendered on 13.02.2023 the applicant was acquitted. It is the case of the applicant that he had been acquitted of the charges leveled against him and after his acquittal he sought reinstatement in service on the ground that the charges leveled against him for which he was removed from service, were no more in existence. He

sought reinstatement by approaching the respondents vide Annexure A-5 application dated 02.03.2023. Receiving no response, he sought certain information under the Right to Information Act on 30.03.2023 to which he was informed that he has been dismissed from service based on the show cause notice and the reply submitted by him. When no relief was granted to the applicant, he has invoked jurisdiction of this Tribunal.

3. Learned counsel for the applicant took us through the judgment rendered by the Criminal Court, the evidence led in the same and argued that the criminal court has held that the charges leveled against the applicant have not been proved beyond reasonable doubt. The prosecution has failed to establish the guilt against the applicant and, therefore, it is stated that the applicant should be reinstated in service with all consequential benefits. Inviting our attention to the reasons for dismissal under Rule 17 of the Army Rules 1954 and judgments of the Hon'ble Supreme Court in the case of **S.N. Mukherjee v. Union of India** (1990) 4 SCC 594, **Manni Lal v. Parmai Lal & Ors.** AIR 1971 SC 330,

learned counsel tried to argue that it is a well settled principle of law that hon'ble acquittal in an appeal has retrospective effect. Such acquittal nullifies the conviction and sentence awarded by the court and when an acquittal is granted in the trial by the lower court all the disqualification attached to the allegations and involvement in the criminal case are wiped away and once the allegation of obtaining appointment by fraudulent documents is held to be not proved in the criminal case, the applicant is entitled to be reinstated in service.

4. It was argued that the judgment and finding recorded in the trial by the Judicial Magistrate First Class at Belagavi which includes 15 oral witnesses and more than 94 documents, speaks volume about the allegations against the applicant being false and as the charges against the applicant are not proved in the criminal case, based on the same allegations which forms the basis for issuing the show cause notice and dismissal of the applicant, the basis having gone the applicant is entitled to be restored to the position which existed before taking action against him and, therefore, it is argued that the

applicant should be reinstated in service with full back wages.

5. Further, reliance is placed on an Order passed by a Coordinate Bench of this Tribunal in OA No.1719/2024 in ***Ex Rect. Sonu v. Union of India & Ors.*** decided on 26.03.2025 to say that once there is honorable acquittal of a person who is dismissed from army service on the ground of producing false and fabricated documents, he should be reinstated in service, once the basis of the dismissal is wiped out in a properly conducted trial by a competent criminal court.

6. Respondents have refuted the aforesaid contentions and argued that the applicant at the time of enrolment produced an education certificate bearing No. G2739770 and a mark sheet bearing Sl. No.G-2851075 in support of his educational qualification and date of birth. Provisionally, subject to verification of the documents he was taken into service. The documents submitted by the applicant were forwarded to the Maharashtra State Board of Secondary and Higher Secondary Education Divisional Board vide communication dated 21.11.2009 and the said

Board vide their letter bearing date 15.03.2010 intimated that the date of birth, school number and centre number mentioned in the said documents do not tally with the official records maintained by the education board. It was indicated that these documents were never issued by the Maharashtra State Board. Based on the aforesaid, a court of inquiry was convened on 29.03.2010 to investigate the circumstances under which the applicant was enrolled into the army and the fact about his producing fraudulent documents at the time of enrolment. The applicant appeared in the court of inquiry, admitted about production of the fake educational certificates and indicated that as he was over age he had manipulated the date of birth in the document to come within the age criteria fixed for recruitment. He also deposed in the court of inquiry that he had paid a sum of Rs.10,000/- to an unknown person for obtaining these certificates. Based on the evidence that came in the court of inquiry a report was submitted by the court holding the applicant guilty of the allegations of producing false and fabricated documents. Accordingly, a show cause notice was issued

to the applicant on 11.05.2010. He submitted his reply to the show cause notice wherein again he admitted of having got enrolment by showing less age and explained the family compulsion and family problem, the necessity of having secured employment and the fact of having procured employment by fraudulent means. Based on the findings recorded in the court of inquiry and the admission made by the applicant to the show cause notice, he was dismissed from service and after dismissal the matter was reported to the police authorities. An FIR was lodged vide FIR No.74/2010 on 17.06.2010 to the Police Station Camp Belagavi for offence under Sections 465, 478, 471. Thereafter, the police authorities investigated the matter, filed the challan and charge sheet in the criminal case, the applicant was prosecuted and finally he was acquitted of the charges leveled against him.

7. Learned counsel for the applicant invited our attention to the proceedings of the court of inquiry, the statement of the applicant recorded in the court of inquiry, the show cause notice issued, the reply to the

show cause notice and various other documents available on record and argued that the administrative authorities took a decision based on the inquiry conducted by them and the submissions made by the applicant in the said inquiry and show cause notice and thereafter, the army authorities had nothing to do with the prosecution of the applicant. The facts were simply reported to the police authorities who registered the FIR and prosecuted the applicant, put him to trial for the offences under Sections 465, 468, 471 and the additional Civil Judge and Judicial Magistrate First Class, Belagavi on 13.02.2023 in para 44 of the judgment held that the prosecution has failed to prove the guilt of the applicant beyond reasonable doubt and he was acquitted. It is the case of the respondents that the acquittal of the applicant, in no way, prevents them from having taken action in the matter after conducting a court of inquiry and issuing a show cause notice. It is stated that the administrative action taken is independent of the criminal trial conducted at the instance of the police authorities and merely because the applicant is acquitted in the criminal case, the same is not

binding on the employer. The employer has taken administrative action based on the material that came in the departmental proceeding and therefore, merely because the applicant has been acquitted in the criminal case, that cannot be a ground of reinstating him into service.

8. It is the case of the respondents that a departmental proceeding and a criminal trial are different. The nature of evidence and the proof required in both these proceedings are different. Even after acquittal in a criminal case, a departmental inquiry is permissible as both are based on different sets of evidence and circumstances and the law permits taking departmental action even after acquittal in the criminal case.

9. It is argued that the effect of acquittal will not come in the way of the administrative action taken based on the inquiry conducted by the administrative authorities and in support thereof reliance is placed on the following judgments of the Supreme Court:-

(i) ***Ajit Kumar Nag vs. General Manager(P.J.) Indian Oil Corporation Ltd. Haldia & Ors.*** 205 7 SCC 764,

(ii) ***GM Tank Vs. Stae of Gujrat and Ors.*** 2006 6 SCC 446.

10. That apart, learned counsel for the applicant took us through the findings recorded by the Judicial Magistrate First Class at Belagavi and tried to demonstrate that the evidence on record available clearly suggests that the applicant and his mother have admitted about certain aspects of the matter and only because the prosecution witness turned hostile in the trial, benefit of doubt has been granted to the applicant as detailed in para 44 and he has been acquitted.

11. Respondents contend that the applicant having admitted the guilt in the departmental proceedings and in the court of inquiry conducted, cannot now wriggle out of the same. He is bound by the admission made to the competent authority. The evidence in the criminal case recorded after more than 13 years of his dismissal is not

binding on the employer and, therefore, based on the acquittal, no relief can be granted to the applicant.

12. We have heard learned counsel for the parties and find that after participating in the recruitment rally at the time of his enrolment in August 2009, the applicant did submit two certificates i.e. the mark sheet and the Board Certificate, as detailed hereinabove. On verification, both of these certificates were found to be fabricated and the same was informed to the competent authority by the office of Maharashtra State Board of Secondary and Higher Secondary Education, Kolhapur Divisional Board, vide letter dated 15.03.2010. Based on this, a court of inquiry was convened on 29.03.2010 and the proceedings of court of inquiry revealed that the applicant was guilty of having produced a fabricated mark-sheet and that he paid Rs.10,000/- for obtaining this mark-sheet. Accordingly, a show cause notice was issued to the applicant and when the show cause notice was issued, the applicant admitted about the facts mentioned in the show cause notice.

13. Available on record, is a communication dated 21.11.2009 issued from the office of the Maratha Light

Infantry Regimental Centre (MLIRC) at Belgaun to the Maharashtra State Board of Secondary & Higher Secondary Education Board, Kolhapur forwarding two certificates of the applicant and of one Rect. Pol Avadhut Vinayakrao i.e. the mark sheet and the Board certificates for verification. On 15.03.2010, the Divisional Secretary of the said Board indicated that the marks, the date of birth, the school number, the center number in the mark sheet sent for verification with regard to the candidate Patil Nivas Dattatraya, do not tally with the record of the candidates maintained in the Board Office. It is after this that a court of inquiry was conducted and in the court of inquiry, as is evident, the applicant admitted the charges leveled against him. Finding a *prima facie* case made out for taking action under Army Act Section 20 read with Army Rule 17, on 11.05.2010 a show cause notice was issued to the applicant by the Commandant of the regiment as is available on record. This was received by the applicant on the same date i.e. 11.05.2010 as is evident from the receipt available on record and on 14.05.2010, in his own hand writing in Hindi, the

applicant submitted his reply to the show cause notice. In the reply to the show cause notice, the applicant admits the facts that he tried very hard to get enrolled in the Army and as he was over age, he got his age reduced and took employment. He has indicated that he belongs to a poor family and after death of his father, his mother educated him and as he was in dire need of the job, he got the documents fabricated, committed the crime and sought appointment.

14. It is clear from the proceedings of the Court of inquiry and the administrative action taken thereafter that the applicant admitted his guilt in the show cause notice. Neither after the impugned action was taken on 17.06.2010 nor before any other authority is there anything available on record to indicate that the applicant was compelled to make the admission in the court of inquiry in the administrative process held nor does he implicate anybody for forcing him to do so. It is for the first time in the rejoinder filed by the applicant after 15 years in para 4 that without naming anyone he denies having admitted allegations in the court of inquiry and his

reply to the show cause notice. That being so, it is a case where on the basis of admission of the applicant, the respondents have taken action and the issue, therefore, before this Tribunal would be as to what is the effect of the acquittal of the applicant and whether based on the acquittal of the applicant he can be directed to be reinstated in service. The law on the subject is very clear. The nature of proof required in a criminal proceeding and in a departmental proceeding are entirely different. The judgments of the Supreme Court and various High Courts clearly lay down the principle that even after acquittal in a criminal case, the employer can still hold a departmental inquiry and punish the applicant or the employee for departmental misconduct. The only prohibition is if the evidence produced in the departmental inquiry and the criminal case are identical and if based on the same evidence there is an acquittal then on the same evidence the subsequent departmental inquiry after acquittal is not permissible. That apart, if the criminal court has given benefit of doubt and it is not a clean acquittal on merits of the case, the same is also not binding on the employer.

Reference in this regard can be made to the law laid down in the cases of **Ajit Kumar Nag** (supra) & **G.N. Tank** (supra).

15. That part, the legal position with regard to departmental action and the effect of acquittal in a criminal case has been considered in the following cases:-

15.1 **Deputy Inspector General of Police and Anr. V. S. Samuthiram** (2013) 1 SCC 598- In this case it has been held that if the acquittal in the criminal case is on account of a flawed prosecution, departmental action based on the adequate evidence will not be adversely affected. Discussions have been made in this regard in para 23 and 24 of the said judgment and the same squarely applies to the facts of the present case.

15.2 In the case of **Divisional Controller, Gujarat SRTC, v. Kadarbhai J. Suthar** (2007) 10 SCC 561, also it has been held that mere acquittal in a criminal case will not have the effect of nullifying the decision taken in the departmental proceedings as both operate in different areas of consideration.

15.3 Again in the case of **Samar Bahadur Singh v. State of Uttar Pradesh and Ors.** (2011) 9 SCC 94, these views have been reiterated.

15.4 In the case of **Divisional Controller, Karnataka State Road Transport Corporation v. M.G. Mittal Rao** (2012) 1 SCC 442, it has been laid down by the Hon'ble Supreme Court after relying upon various judgments of the Supreme Court in para 17 that the factors prevailing in the mind of the disciplinary authority in departmental proceedings is for enforcement of discipline. The standard of proof required in those proceedings is totally different from those required in the criminal case. In a departmental proceeding proof of preponderance of probabilities is sufficient to take action but in a criminal case the prosecution is required to prove the guilt beyond reasonable doubt. This difference in the standard of proof required in criminal case and a departmental proceeding distinguishes the law with regard to the effect of subsequent acquittal on the departmental action taken for dismissal.

15.5 In the case of ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya*** (2011) 4 SCC 584, it has been held that after dismissal based on departmental proceedings subsequent acquittal by giving benefit of doubt by a criminal court will in no way render the completed departmental proceedings invalid nor will it affect validity of the finding of guilt and its consequential punishment.

15.6 Finally, in the case of ***S. Bhaskar Reddy and Anr. v. Superintendent of Police and Anr.*** (2015) 2 SCC 365, these principles have again been reiterated.

16. At this stage, it would be appropriate to go through the judgment of the criminal court, to analyze as to what is the reason and how the analysis have been made by the criminal court for according acquittal. From the judgment of the criminal case it is seen that the applicant was accused No.1 and accused No.2 was one Shri Dinkar Pandurang Magadum who died during the pendency of the trial. The date of offence is shown as 07.06.2010 on which date the complaint was registered by one Pradeep Sonrepriya Navalgud. The charges were framed for

offence under Sections 420, 465, 468, 470, 471 r/w Section 34 of the IPC. Recording of evidence commenced on 28.07.2015, it was concluded on 16.04.2022 (i.e. after 7 years) and the judgment was pronounced on 13.02.2023. It was the allegation in the criminal case that the date of birth of the applicant in the mark sheet and Board certificate was shown as 24.11.1989 whereas it was 24.11.1985 as per the school authorities and the documents produced by the investigating authorities. It is, therefore, alleged that the applicant fabricated the documents and produced them to take advantage of a lower age to get appointed in the recruitment rally conducted in July 2009.

17. PW 7 was the complainant who lodged the complaint vide exhibit PW 36 and he has deposed before the authorities that he worked as an Adjutant in the Maratha Regiment Centre Belagavi from 2008-2011. The applicant participated in the recruitment rally held in July 2009 and submitted two documents as proof of his date of birth. These documents have been exhibited as exhibit P 79 and P 80. The witness further deposes that these documents

were sent for verification to the Education Board and the communication received from the education board indicates that they were fake and manipulated documents. This witness, however, admitted that during this period the applicant had worked for six months.

18. The second witness PW 2 turned hostile and did not support the case of the prosecution. However, interestingly, PW3 Shivaji Bapu Ingle is said to be relative of the accused, the applicant hereinabove and he deposed that CW 8 i.e. Complainant Witness is sister of his father and mother of the applicant. He admits that the applicant worked in the Army and according to this witness in order to secure job in the Military to her son, mother of the applicant had taken Rs.50,000 from him on the pretext that this has to be paid to accused No.2 -Dinkar Pandukar since dead and the money is also required for forging the date of birth in the documents. It is stated that two lakh rupees were given by mother of the applicant to accused No.2 for securing the job. The statement of this witness has been taken note of by the court. Interestingly, Kamala Dattatreya Patil, the mother

of the applicant has also been examined as PW 4 and she stated that her son worked in the Army and has been removed from service. She admits that she has given the documents of her son to accused No.2 and after one year she came to know that the documents were forged. In cross examination PW 4, mother of the applicant admitted that in order to secure job to accused No.1 they had given money to accused No.2. However, she pleaded ignorance about the manipulation of the date of birth in the school documents. She denied that the documents were fabricated. She only admitted that she has given money to accused No.2 to secure job for her son. These facts are available on record and have been taken note of by the learned criminal court in para 13 of the judgment.

19. PW 5 Panduranga Krishna Patil, is working as a Clerk of Kadasiddeshwar High School and Junior College, Kaneri. This witness admits that the signatures of the authorities i.e the Head Master of the School in documents P 22 to P 27 i.e. the disputed documents along with signature of the Principal, Principal's seal etc. and this witness testifies after going through the documents

that the school leaving certificate of accused no. 1 which is on record, is not issued by the school and the seal and signature in the said certificate do not belong to the said school. PW 6 Arjun Laxman Hongekar, Head Master of the school has also deposed that the School Leaving Certificate in the name of accused No.1 is not issued by his school and the seal and signature in the said documents do not belong to the school and the signature is not his. However, in para 28 the learned trial court after taking note of the evidence of the two witnesses from the school, PW 5 and PW 6 discards it on the ground that the expert opinion produced by the prosecution failed to prove the signature of the accused No.1. A close scrutiny of the assessment of the prosecution analysis of evidence by the criminal court in para 29 goes to show that for reasons recorded therein, it is held that the prosecution failed to prove the expert opinion . It failed to collect the seal by which the accused persons created the disputed document exhibit P 79 and P 80 and there was no evidence adduced to show as to who has fabricated the

signature in the disputed documents and from where the accused persons have created those seals.

20. After relying on various judgments, the criminal court has recorded the findings as indicated in para 14 which read as under:-

"14. The PW 5 is the clerk of Kadasiddeshwar High School and Junior College has deposed that, he know Accused No.1, Accused No.1 studied in their school. He also admitted that, this case is registered against the Accused persons due to forging of date of birth. He also admitted his signatures at Ex. P.10 to Ex. P.15 which are marked as R.85 to 90. He further admitted the seal of the school at Ex. P.16 to 21, which are marked as M.1 to 6. He also admitted the signatures of Head Master of their school at Ex. P.22 to 27. He deposed that, the school leaving certificate of Accused No.1 which is on record was not issued by their school and the signatures and seal on the said certificate are not belongs to them and their school. In the cross-examination the learned counsel for Accused has not elicited anything worth from the mouth of PW.5."

21. Even though this Tribunal does not sit in appeal over the decision of the criminal court, but a close scrutiny of the findings recorded by the criminal court goes to show that it has held the prosecution not to have proved the case on account of certain discrepancies in the expert opinion given by the forensic expert in the matter of collecting forensic evidence and collecting the admitted

signatures of the applicant etc. In our considered view, the order of acquittal by the criminal court is not a clear acquittal in accordance with law. It is giving benefit of doubt to the applicant only because the prosecution, according to the criminal court, failed to prove its case in the criminal court. However, still the evidence of PW 4 and PW 5 who were witnesses from the school did indicate that the disputed documents exhibit P 79 and P 80 were not issued by the school.

22. Be that as it may be, without expressing any further opinion on the order of the criminal court, the law on the subject as discussed hereinabove i.e. with regard to taking departmental action for service misconduct particularly against a man in uniform who commits fraud or uses fraudulent means to seek employment in the armed force, we are of the considered view that if the departmental authorities have taken action which are administrative in nature in accordance with requirement of law after conducting a court of inquiry and issuing a show cause notice and there is no material available on record to indicate that the said process stands vitiated on account

of any reason including coercion, misrepresentation or fraud exercised against the applicant, mere acquittal subsequently after 19 years in a criminal case cannot be a ground for setting aside the departmental action taken in the matter. In this case departmental action was taken after following the requirement of the statutory rules and regulations as laid down in the Army Act and the Army Rules i.e by conducting a court of inquiry and based on the same taking administrative action under Section 20 read with Rule 17, we see no reason to interfere into the matter simply on the ground that there is an acquittal in the criminal case after 19 years. This is a case where there is enough material available on record to show that for the purpose of obtaining appointment, the applicant did fabricate or manipulate the school leaving certificate and the mark sheet. He admitted of the same in the departmental proceedings. There is nothing to indicate that the admission was obtained by misrepresentation or coercion and, therefore, the subsequent acquittal in the criminal case is of no consequence in the peculiar facts and circumstances of this case particularly when we find

various deficiencies in the analysis of evidence in the criminal case itself as has been scrutinized by us and discussed hereinabove. Accordingly, in the facts and circumstances of the case, we are of considered view that the respondents have proved before this Tribunal the justification of the administrative action taken by them. There being no statutory violation, illegality or irregularity in the administrative action taken, subsequent acquittal in the criminal case does not call for any interference in the matter. The well settled principle of law in such matters applicable in service jurisprudence dis-entitles the applicant from seeking any relief in the matter. The OA is, therefore, dismissed.

23. There is no order as to costs.

24. Pronounced in open Court on this the 7 day of October, 2025.

[Rear Admiral Dhiren Vig]
Member(A)

[Justice Rajendra Menon]
Chairperson

/vb/