

**ARMED FORCES TRIBUNAL  
REGIONAL BENCH  
JABALPUR**

**CORAM :**

**HON'BLE MR JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN GOPAL R, MEMBER (A)**

**OA76/2021 WITH MA 125/2021**

**No 15756084K Ex Rect Manoj Rawat  
S/o Shri Jagat Narayan Rawat,  
R/o Village Dhara, Tehsil Ambh,  
District Morena (MP).**

**.....Applicant**

**Versus**

- 1. Union of India,  
Through the Secretary,  
MoD, Govt. of India, New Delhi.**
- 2. COAS,  
Army Headquarters, DHQ, Post Office,  
New Delhi.**
- 3. Commanding Officer,  
3 Military Training Regiment,  
2 Singal Training Centre,  
Madgaon (Goa)**
- 4. Commandant,  
2 Signal Training Centre,  
Panjim (Goa)**
- 5. OIC,  
Signal Records,  
Jabalpur**
- 6. Army Recruiting Officer,  
Sarla Plaza Gram Sadak Morar,  
Gwalior (M.P)-474006**

**.....Respondents**

**For Applicant** : Mr HC Singh, Mr Manoj Pathak, Mr Pradeep Dwivedi and Mr Ashok Shah, Advocates

**For Respondents** : Mr Vikram Singh, CGSC

**ORDER**

**MA 125/2021**

Keeping in view the averments made in this application finding the same to be bonafide, in the light of the decision in *Union of India and others Vs. Tarsem Singh [(2008) 8 SCC 648]*, the same is allowed condoning the delay in filing the O.A. M.A. stands disposed of.

**OA 76/2021**

**Brief facts of the case**

1. The individual was enrolled in Army on 11.06.2018 by Army Recruiting Office (ARO) Gwalior and had undergone Basic Military training at 3 Military Training Regiment, Madgaon, Goa w.e.f. 02.07.2018. A complaint dated 06.06.2018 from one Smt Shakuntala W/o Shri Ramveer Sharma had been received by ARO, Gwalior stating that the individual actually belonged to District Agra and a police case existed against him under IPC Section 147,148, 149, 323, 336, 504 and 506 in police station Basai Arela, Agra. On receipt of the said letter, ARO, Gwalior had written to Superintendent of Police, Agra for verification of the facts regarding police case vide letter No D/401/Complaint dated 12.06.2018. Police station Basai Arela replied on 10.07.2018 confirming that a case indeed was registered against the individual under various IPC Sections as mentioned in the complaint. Thereafter, ARO, Gwalior forwarded all documents to 2 STC, Panaji, Goa for initiating appropriate action against the individual as per existing rules.

2. The individual had been served Show Cause Notice on 25.10.2018 seeking his reply on concealing information regarding his involvement in

criminal case and submission of fake domicile certificate at the time of enrolment in Army.

3. In his reply dated 31.10.2018, the individual stated that he was originally resident of district Morena (M.P) and applied in Army for recruitment on the basis of correct domicile Certificate. However, his grandparents and other relatives reside in District Agra (U.P), and he was residing with grandparents at Agra at the time of 10<sup>th</sup> class examinations. On second issue regarding his involvement in criminal case, he replied that he was not aware about the same and therefore, could not give correct information at the time of recruitment on 11.06.2018. He came to know about this through his family as there was some dispute between his family and Smt Shakuntla Devi (complainant). His name was included in the FIR with ill intention.

4. The authorities had approached HQ Southern Command (Discipline and Vigilance Branch) for seeking further directions. HQ Southern Command (Discipline and Vigilance Branch) had suggested for initiation of discipline proceedings for hiding the fact/making false answer at the time of enrolment.

5. The case of the individual was transferred from 3 Military Training Regiment (MTR) to 1 Technical Training Regiment (TTR) for further action vide 3MTR letter No PC-15756084K/Sign/D-5/MR dated 15.03.2019 as the individual had already proceeded to 1 TTR for Advance Military Training after completion of Basic Military Training, by that time.

6. The individual was sent back to 3 MTR for disciplinary proceedings on 02.04.2019. On the same date, verification report was received from District Magistrate Morena, intimating that no criminal case was found recorded against the individual.

7. The individual was given an opportunity on 04.04.2019 to give statement in his defence before proceedings were initiated against him as per directions of HQ Southern Command. According to the statement given by the individual, he was aware of the FIR lodged against him in Agra district. However, since he had applied for Enrolment from Gwalior and there were no criminal cases against him in Morena, he did not mention regarding FIR lodged in Agra district.

8. Based on all the documents and statement of the individual, Commandant, 2 STC accorded approval for discharge of the individual from service on 15.07.2019 under Army Rule 13(3) (IV).

### **Arguments by Counsel for the Applicant**

9. It was averred that at the time of the verification/enrolment, the individual did not have knowledge about the FIR. There was only a family dispute between the applicant's family and FIR had been registered, not only against the applicant but also against 15 persons. There was only heated arguments between the parties and the applicant had not been alleged any serious involvement in the incident. Learned Judicial Magistrate, Fatehabad, Agra Court had also acquitted the applicant and all other co-accused, as per the final order passed by the trial court on 20.11.2020.

10. Further, the applicant was only 20 years old when he was enrolled in the year 2018 and FIR had been registered for minor offences only. However, Respondents discharged the applicant without considering all these facts, which is bad in law.

11. Counsel for the applicant had put reliance on the judgments of Apex Court in the case of Avtar Singh Vs. UOI (2016) 8 SCC 471 and in the case of

Deputy Inspector General of Police Vs. S. Samuthiram (2013) 1 SCC 598 in favour of the applicant.

12. Feeling aggrieved by the illegal and arbitrary discharge, the OA had been filed with a prayer for reinstatement in service with all consequential benefits and cost of litigation.

### **Arguments by Counsel for the Respondents**

13. Counsel averred that as per Para 8 of Enrolment prepared by Army Recruiting Office, Gwalior, the individual had concealed details of his criminal background during enrolment. According to statement made by the individual in his defence on 04.04.2019, he had stated that he was aware of the FIR lodged against him in Agra district. However, since he had applied for Enrolment from Gwalior and there were no criminal cases against him in Morena, he did not mention about the same during enrolment process.

14. Counsel further averred that in accordance to the law laid down by the Hon'ble Apex Court in the series of judgements, it has been held that a person trying to obtain the public employment by virtue of the false certificate does not deserve to have any sympathy and the appointment, if made is nonest in the eye of law since ab-initio. Therefore, the individual is not entitled for any relief and accordingly the OA deserves to be dismissed.

### **Consideration**

15. We have heard both the parties and perused the records.

16. The Hon'ble Apex Court in **Daya Shankar Yadav vs. Union of India, (2010) 14 SCC 103**, had an occasion to consider the purpose of seeking the information with respect to antecedents. It was observed and held that the purpose of seeking the information with respect of antecedents is to ascertain

the character and antecedents of the candidate so as to assess his suitability for the post. Thereafter, it is observed and held that an employee can be discharged from service or a prospective employee may be refused employment on the ground of suppression of material information for making false statement in reply to queries relating to prosecution or conviction for a criminal offence (even if he was ultimately acquitted in the criminal case). The Hon'ble Apex Court in para 16 had observed and held as under:-

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***“16. Thus an employee on probation can be discharged from service or a prospective employee may be refused employment : (i) on the ground of unsatisfactory antecedents and character, disclosed from his conviction in a criminal case, or his involvement in a criminal offence (even if he was acquitted on technical grounds or by giving benefit of doubt) or other conduct (like copying in examination) or rustication or suspension or debarment from college, etc.; and (ii) on the ground of suppression of material information or making false statement in reply to queries relating to prosecution or conviction of a criminal offence (even if he was ultimately acquitted in the criminal case). This ground is distinct from the ground of previous antecedents and character, as it shows a current dubious conduct and absence of character at the time of making the declaration, thereby making him unsuitable for the post.”***

17. The Hon'ble Apex Court in the case of *State of A.P. v. B. Chinnam Naidu, (2005) 2 SCC 746*, had observed that the object of requiring information in the attestation form and the declaration thereafter by the candidate is to ascertain and verify the character and antecedents to judge his suitability to

enter into or continue in service. It is further observed that when a candidate suppresses material information and/or gives false information, he cannot claim any right for appointment or continuance in service.

18. The Hon'ble Apex Court in *Jainendra Singh vs. State of U.P.*, (2012) 8 SCC 748, in para 29.4, has observed and held that "a candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services. In para 29.6, it is further observed that the person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service. In para 29.7, it is observed and held that "the standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted."

19. With reference to the case of Deputy Inspector General of Police Vs S Samuthiran (2013) 1 SCC 598, cited by the Counsel for the applicant, we find that the issues involved in the case in hand, are entirely different. In Avtar Singh Vs UOI (2016) 8 SCC 471, suffice to state that the discretion has been left to the employer as to the manner of dealing with potential employees who had suppressed relevant information. In the case before us, we hold that the actions taken by the authorities were appropriate as Uniformed Forces require a very high standard of moral and ethical conduct.

20. In view of above, we find that by not disclosing his involvement in criminal case during his enrolment in the Indian Army, cannot be ignored and therefore, in view of aforesaid judgments of the Hon'ble Apex Court, applicant has rightly been discharged from service.

21. Hence, we do not find any illegality or violation of any rule and regulation in discharging the applicant from service. The O.A. is **dismissed**.

22. No order as to costs.

Pronounced in Open Court on \_\_\_\_\_

18<sup>th</sup> July 2023

(LT GEN GOPAL R)  
MEMBER(A)

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON