

**AFR**  
**Court No.3**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**ORIGINAL APPLICATION NO 65 of 2013**

Wednesday, this the 09<sup>th</sup> day of December 2015

**Hon'ble Mr. Justice D.P. Singh, Member (J)**  
**Hon'ble Air Marshal Anil Chopra, Member (A)**

Ex-Rect Ram Bharat Singh (Army No 5759133P) Son of  
Shri Ramesh Singh, Permanent resident of Village :  
Parikshit Ka Pura, PO: Ambah, Tehsil : Porsa, Distt :  
Morena (MP)-PIN: 476111

.....Applicant

Ld. Counsel for the: **Shri P.N. Chaturvedi, Advocate**  
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, 101 South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, DHQ PO New Delhi-110011.
3. Director General of Infantry/Inf-6 General Staff Branch, IHQ of MoD (Army), Sena Bhawan, New Delhi-110011.
4. Officer-in-Charge Records, 58 Gorkha Rifles, PIN-900332, C/o 99 APO.
5. The Commandant, 58 Gorkha Training Centre PIN:900332, C/o 99 APO.

...Respondents

Ld. Counsel for the : **Capt Priti Tyagi, OIC Legal**  
Respondents **Cell.**

**ORDER (ORAL)**

1. Heard Ld. Counsel for the parties and perused the record.
2. The present Original Application has been filed by the applicant under Section 14 of the Armed Forces Tribunal Act 2007 being aggrieved with the order of discharge from the Indian Army.
3. According to Ld. Counsel for the applicant, the applicant was enrolled in the army on 16.03.2009 and allotted clerk trade after qualifying required written and other tests with directions to report to 58, Gorkha Training Centre at Shillong.
4. According to Ld. Counsel for the applicant the applicant reported for training which commenced from 20.03.2009 and completed about 19 weeks of training with other recruits. Submission of the Ld. Counsel for the applicant is that all the recruits were sent on leave from 03.08.2009 to 17.08.2009 but the applicant was discharged and was directed to go back home under the provisions of Travel Regulation 200 and was sent to Guwahati Railway Station to move for Gwalior. It is submitted that para 200 of the Travel Regulations deals with release of personnel or discharge of service personnel. The applicant was made to understand that

he has been discharged under Section 23 of the Army Rule 1950. Feeling aggrieved the applicant preferred statutory complaint under Section 26 of the Army Act 1950 read with para 364 for Regulations for the Army 1987 on 20.08.2009. When no decision was communicated to the applicant with regard to statutory complaint, the applicant preferred O.A. No. 135 of 2011 which was disposed of with the directions to the respondents to decide the statutory complaint within one month by a reasoned and speaking order. The Respondents rejected the statutory complaint by the order dated 30.03.2011. It is submitted that even the decision was taken after filing of the Execution Case in the Tribunal bearing M.A. No. 50 of 2012.

5. Ld. Counsel for the applicant raised two fold arguments. Firstly, it is submitted that the discharge order was passed without issuing any show cause notice. No certificate of discharge was issued. Entire action of the respondents suffers from illegality and arbitrariness. Secondly, the statutory complaint was rejected without any speaking and reasoned order and also not considering the grounds taken by the applicant in statutory complaint dated 20.08.2009.

6. On the other hand Ld. Counsel for the respondents has vehemently argued that the applicant was rightly discharged from the service and the decision was

communicated to the applicant but the applicant has himself not brought it on record.

7. We have considered the argument of Ld. Counsel for the parties and perused the record. The operative portion of the order dated 30.03.2011 is reproduced as under:-

*“3. Complaint of Ex-Rect Rambharat Singh has been examined against his overall profile, comments of intermediary authorities, rule position and other documents. After consideration of all aspects and viewing it against the redress sought, it has emerged that the individual’s case for discharge from the service has been handled as per policy and no injustice has been done to him.*

*4. I, therefore, direct that Statutory Complaint submitted by Ex-Rect Rambharat Singh be rejected”.*

8. Copy of the impugned order shows that a very cryptic and non reasoned has been passed without taking into consideration the grounds raised by the applicant, Statutory Complaint of the applicant has been rejected and the applicant has been discharged from service. The impugned order also does not disclose as to whether any certificate in pursuance of Army Rule was provided or not. The order shows that the applicant’s case has been handled in an unjustifiable manner and no justice has been done to him. We have not been able to decipher the grounds on the basis of which the applicant has been discharged from service.

9. Now, it is well settled principle of law that every order passed by judicial or quasi judicial or administrative authority, must be speaking and reasoned vide, ***K.R. Deb Vs. The Collector of Central Excise, Shillong***, AIR 1971 SC 1447; ***State of Assam & Anr. Vs. J.N. Roy Biswas***, AIR 1975 SC 2277; ***State of Punjab Vs. Kashmir Singh***, 1997 SCC (L&C) 88; ***Union of India & Ors. Vs. P. Thayagarajan***, AIR 1999 SC 449; and ***Union of India Vs. K.D. Pandey & Anr.***, (2002) 10 SCC 471, ***Assistant Commissioner, Commercial, Tax Department, Works, Contract and Leasing, Quota Vs. Shukla and brothers***, (JT 2010 (4) SC 35, ***CCT Vs. Shukla and Brothers*** 2010 (4) SCC 785

10. In the case of Shukla and Brothers (supra), their Lordships held that the reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases. Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty, to quote :-

*“Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principle are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements”.*

*The concept of reasoned judgment has become an indispensable part of the basic rule of law and, in fact, is a mandatory requirement of the procedural law”.*

11. In another case, reported in ***JT (12010) (4) SC 35: Assistant Commissioner, Commercial, Tax Department, Works, Contract and Leasing, Quota. Vs. Shukla and Brothers*** their lordships of Hon’ble Supreme Court held that it shall be obligatory on the part of the judicial or quasi judicial authority to pass a reasoned order while exercising statutory jurisdiction. Relevant portion from the judgment of Assistant Commissioner (Supra) is reproduced as under :-

*“The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion showing proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself. Such rule being applicable to the administrative authorities certainly requires that the judgment of the Court should meet with this requirement with high degree of satisfaction. **The order of an administrative authority may not provide reasons like a judgment but the order must be supported by***

***the reasons of rationality.*** *The distinction between passing of an order by an administrative or quasi-judicial authority has practically extinguished and both are required to pass reasoned orders.*

*(Emphasis Supplied)*

12. On this ground alone (supra), the O.A. deserves to be allowed, and is accordingly **allowed**. Impugned order of discharged dated 05.04.2011 is set aside. The matter is remitted back to the Statutory Authority to restore the original statutory complaint and decide it afresh expeditiously, say, within four months from date of presentation of a certified copy of this order by passing reasoned and speaking order covering all the grounds raised by the applicant keeping in view the observations made hereinabove and communicate the decision to the applicant.

No orders as to costs.

**(Air Marshal Anil Chopra)**  
**Member (A)**

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**(Justice D.P. Singh)**  
**Member (J)**