

**AFR**  
**Court No.1**  
**Reserved Judgment**

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

**Original Application No. 523 of 2017**

**Wednesday this the 15<sup>th</sup> day of May, 2019**

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

Ex Corporal Chakravir Chaudhari (No 787880-S)  
Son of Shri Bhuri Singh Chaudhari  
Resident of Vill – Rithora  
Post – Akola, PS – Kagarol  
Dist – Agra (U.P.) Pin - 283102

**..... Applicant**

Ld. Counsel appeared for the Applicant - Col R.N. Singh (Retd)  
Advocate

Versus

1. Union of India,  
through the Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Chief of the Air Staff,  
Vayu Bhawan Rafi Marg,  
New Delhi - 110106.
3. Air Officer Commanding in Chief,  
Vayu Sena Nagar  
Nagpur.
4. Commanding Officer 16 Base Repair Depot,  
Air Force Palam,  
New Delhi – 110010.

**..... Respondents**

Ld. Counsel appeared for the Respondents - Shri Shyam Singh  
Central Government Counsel

**ORDER**

**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)”**

1. By means of this Original Application filed under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has prayed for the following reliefs :-

*“(a) To quash/set aside the speaking order dated 11-09-2015 communicated to the applicant on 12-09-2015 (Annexure No.A-4) including the dismissed order dated 12-09-2015 because of the way of the various reasons enumerating in the preceding paragraphs.*

*(b) To reinstate the applicant in service with all service and monetary consequences.*

*(c) issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*

*(d) Allow this application with costs.”*

2. In brief, the necessary facts of the instant case may be summarised as under:

The applicant was enrolled in the Air Force on 28.12.2004. During his service period, he was posted at different places and had performed his duties to the satisfaction of his authorities. From 30.12.2013 to September 2015, he was posted at 4 Wing Air Force to 16 Base Repair Depot, where he performed his assigned duties. Between 10<sup>th</sup> to 20<sup>th</sup> July 2015, a recruitment racket by issuing forged call letter came to the notice of Air force Selection Centre, Gauhati and the Air Force Police was directed by Air Force authorities to probe the matter. During the said probe, the name of the applicant also emerged as a person involved in the said recruitment racket, therefore, his statement was also recorded and the applicant was arrested and he remained in custody from 08<sup>th</sup> August 2015 till 12<sup>th</sup> September 2015. The complicity of the applicant came into light in the report of the Air Force Police, thereafter a show cause notice was issued to the applicant, which was duly replied by him and thereafter the applicant was dismissed from service.

3. The applicant has challenged the said order on the grounds that there was virtually no evidence against the applicant to connect him with the offence. The alleged confession of the applicant was not admissible in law and it was procured by coercion exercised on him. The detention of the applicant for the aforesaid period in contravention of Rules was illegal. There was no compliance of Rule 24 of the Air Force Rules, 1969 and, therefore, the order of dismissal was patently illegal and cannot be sustained and it deserves to be set aside and the applicant has to be reinstated in service. Great emphasis has been laid by the applicant on the non compliance of Rule 24 of the Air Force Rules, 1969. It is submitted that no Court of Inquiry, no preliminary enquiry or Summary of Evidence was recorded in the matter and in absence of any such procedural law, the order of dismissal was passed at the behest of the Commanding Officer and as such, the order of dismissal cannot be sustained.

4. On behalf of the respondents, it is submitted that in the probe by the Air Force Police, so much materials were collected against the applicant, which led to the only conclusion that the applicant was one of the main culprits in the recruitment racket. A very huge amount of money of about Rs.60 lacs was deposited in the account of the applicant, to which he could not furnish any satisfactory explanation. Apart from it, several huge amounts were deposited in the account of the applicant and transferred to other persons. Details of such bank accounts were also obtained by the Air Force Police. The applicant himself has voluntarily made an unconditional confession and, therefore, in view of the confessional statements, which were supported by evidence in material, the competent authority passed the order of dismissal and, therefore, there is no illegality or irregularity in the said order.

5. It has also been argued by the learned counsel for the respondents that regarding the aforesaid recruitment racket, an FIR was lodged under Sections 420, 467, 471, 120B/34 IPC and, therefore, any action against the

applicant ought to have been taken only after the investigation and trial of the applicant.

6. It has been argued by the learned counsel for the applicant that the applicant's dismissal from service would amount to double jeopardy because on one hand, he has been dismissed from service administratively and on the other hand, if he is found guilty in the criminal trial, then he would have to suffer punishment also.

7. At this stage, we would like to first reproduce the report of the Air Force Police, which reads as under :

“AFNET : 3311-7780

21 P & S (U) Dett AF  
C/O 19 Wing, AF  
C/o 99 APO  
July 15

21 PM/Dett/S.7460/4/SIB  
HQ EAC, IAF (SO P:rov)  
C/O 99 APO

**FORGED CALL LETTER CASE**  
**AT 11 ASC, AF ON 10 JUL 15**

1. At about 0845 hrs on 10 Jul 15 this unit Dett received a telephone message from WO Pandey Adjt 11 ASC, AF stating that one civilian youngster aged about 20 yrs from Dholpur (Rajasthan) has reported with a 'Call Letter', in which it was stated that same individual was called for selection in IAF as a merit list candidate. On scrutiny of the said 'Call Letter', it was found fake and forged. Immediately a team from this Unit Dett was detailed to investigate the above case.
2. **Brief of the case:** At about 0730 hrs on 10 Jul 15, a youngster named Sh Madhav Singh reached at 11 ASC, AF Guwahati with a 'Call letter for enrolment in IAF in Gp 'Y' (Merit List Candidate). To the surprise about call letter without any pre-planned selection, WO Pandey checked the 'Call Letter' thoroughly and found the 'Call Letter' was fake. He took the individual to Sqn Ldr VPV Baliga CO 11 ASC, AF and explained the same as per version of individual and shown the forged 'Call Letter' to him. In turn CO 11 ASC, AF after going through the letter informed the matter to undersigned and CO 8 LU AF.
3. **Onset of the Investigation:** On inquiry from Sh Madhav Singh, it was revealed that he is permanent resident of Vill-Jheel Post & PS- Baseri, Dist Dholpur (Rajasthan). His family details are as follows:-

<u>Name</u>	<u>Age</u>	<u>Marrital Status</u>	<u>Relation</u>	<u>Address</u>
Sh Ramesh Singh	55 Yrs	Married	Father	Dholpur (Rajasthan)
Smt Batto Devi	50 Yrs	Married	Mother	Dholpur (Rajasthan)
Smt Saroj Devi	32 Yrs	Married	Sister	Morena (MP)

Smt Bhuro Devi	29 Yrs	Married	Sister	Morena (MP)
Smt Manju Devi	26 Yrs	Married	Sister	Nadoli (Rajasthan)
Sh Raj Bahadur	18 Yrs	Student (10 <sup>th</sup> )	Brother	Dholpur (Rajasthan)
Sh Paraduman Singh	16 Yrs	Student (10 <sup>th</sup> )	Brother	Dholpur (Rajasthan)

Further he stated that he completed his secondary in year 2010 and senior secondary in year 2012. He appeared for NDA, Rajasthan Patwari Exam and Rajasthan Jail Guard also but could not clear any exams. On the suggestion of his cousin brother Sh Rajender Singh S/O Sh Bheem Singh resident of Dholpur Rajasthan, he visited Guwahati on 13 Jul 2014 alongwith one of his cousin brother Sh Ramprakash S/o-Late Suresh Singh during 'Recruitment Rally', organized for candidates of Assam & other NE States. After reaching at Guwahati, they reached AF Tinali near AFS Guwahati.

There they met with a person in civil cloths who introduced himself as Shri Than Singh and confirmed that there is no entry for Rajasthan candidates, however he promised them to get enrolment in IAF without sitting in any entrance test with a bribe of Rs.400,000/- and amount to be paid after getting the job. He asked them to come to ASTC bus stand in the evening on same day. Both of them returned to the hotel where they were staying. Sh Madhav Singh reached ASTC bus stand and handed over the Original Documents to Sh Than Singh and returned with his cousins to Rajasthan. After 05-06 days Sh Than Singh came to his cousin Sh Rajender Singh at Dholpur (Raj) and handed over the Original Document to him and said job is done arrange money for the job. Thereafter about one year there was no any contract made by Shri Than Singh with Madhav Singh.

On 12 May 15, Sh Madhav Singh received a registered letter with a 'Call letter for enrolment in IAF, in Gp 'Y' (Merit List Candidate). He was surprised to see this call letter, as without appearing in any sort of written examination he received the Call Letter from IAF. On 04 Jul 15 he received a call from Shri Than Singh on his mobile, he was getting angry because Sh Madhav Singh or his father have not informed about the Call Letter. Later it was informed by Shri Than Singh that the date mentioned in Call Letter is postponed to 25 Aug 15 to 10 Jul 15. Further Shri Than Singh asked them to arrange Rs.200,000/- before 25 Aug 15 and collect the 'Green Card' from him. Sh Madhav Singh with concurrence of his father made a plan to visit Guwahati, to check whether the Call Letter is genuine or not.

**4. Onset of the Investigation:** On discreet inquiry from Sh Madhav Singh it was revealed that he came in contact with Sh Than Singh who is working in Delhi through one of his cousin named Sh Rajender Singh. The undersigned had telephonically spoken with Sh Madhav Singh to know more details in the case, which revealed that Sh Madhav Singh was trapped by a group of some personnel who trap innocent candidates who are either not eligible or not having knowledge of proper procedure of enrolment in IAF. Sh Madhav Singh was also interrogated by rep of 8 LU on the same day. The contact numbers of involved personnel in this racket are as follows:

<u>SI No.</u>	<u>NAME</u>	<u>ADDRESS</u>	<u>INVOLVED AS</u>	<u>CONTACT NO.</u>
(a)	Shri Than Singh	Trilokpur New Delhi	Suspected accused	09266111121
(b)	Shri Rajender Singh	Bhadrakali Mandir Odeila Road	Co-accused	08440911614

		Dholpur Rajasthan		
(c)	Shri Madhav Singh	Dholpur	Victim	08104424202
(d)	Shri Ramesh Singh	Dholpur	Victim's father	08504053823

The statement of Sh Madhav Singh was recorded and annexed as appendix 'A' to this report. The photocopy of forged 'Call Letter' and other certificates of Shri Madhav Singh were also obtained from 11 ASC and annexed as appendix 'B' to this report.

**5. Modus Operandi :** The modus operandi of the probable racket is to trap the innocent candidates who are not in the state to appear in the rally due to various reasons such as less mark, overage to appear in rally and not having eligibility to appear in Recruitment Rally.

**6. Recommendation/Suggestions.**The following measures are suggested after positive achievement in this case :-

- (a) CASB and all ASCs should sensitize and educate the local public through visual media and selection in IAF is purely on merit basis not to fall prey such touts to prevent recurrence of such cases in future.
- (b) The fake 'Call Letter' clearly shows that someone is well aware of the pattern of 'Call Letter' issued by CASB as it was attached with the 'Joining Instructions of BTI C/O 405 AF Stn Belgaun, which needs to be scrutinizing at appropriate level.
- (c) 2 P&S (U) AF and 7 P&S (U) AF may be asked to peruse this case with the help of concerned civil police agencies and bring the case to a logical conclusion with apprehension of personnel involved in this racket.

7. This is for your information and further necessary action please.

(Vijay Menon)  
Wg Cdr  
APM

Annexures: As stated

Copy to : Air HQ (VB), Dte of PM (Air) (DPM (V)

11 ASC (C) C/O 99 APO

2 P&S (U) AF C/O AFND

Dett 7 P&S (U) AF C/O 40 Wg AF

21 P&S (U) AF C/O 99 APO"

8. Before passing the order of dismissal, a show cause notice as contemplated under Rule 17 of Air Force Rules, 1969 was issued to the applicant which was very lengthy, but in order to bring all the facts on record, we would like to reproduce the same, which reads as under :

“AFNET : 39117572

HQ Maintenance Command,  
Indian Air Force  
Vayu Sena Nagar  
Nagpur – 440007

MC/C 5000/1/95/Discp

20 Aug 15

787880 Cpl c Chaudhary SEW, 16 BRD, AF

**SHOW CAUSE NOTICE**

1. **WHEREAS**, you were enrolled in the Indian Air Force on 28 Dec 04, in the SEW trade and are at present held on the posted strength of 16 BRD, Air Force, with effect from 30 Dec 13;

2. **AND WHEREAS**, information was received by Dett, 21 Provost & Security Unit [P&S(U)] of one civilian boy, Madhav Singh, resident of Dholpur, Rajasthan who had approached 11 ASC on 10 Jul 15 with a call letter and joining instructions issued by CASB dated 08 May 15 for recruitment in IAF as an Airman, which turned out to be fake. Further investigation revealed that the boy had met a civilian named Than Singh when they had visited Guwahati for a recruitment rally on 13 Jul 14, who had promised to get them recruited after paying Rs. 4,00,000/- (Rupees Four lakhs only) and had collected their original documents, which were returned to them after few days and then the boy (Madhav Singh) subsequently received the joining letter through registered post for joining on 10 Jul 15, in pursuance of which he had reported at 11 ASC;

3. **AND WHEREAS**, personnel of 2 P&S(U) contacted Than Singh at Trilokpuri, New Delhi who stated that he was not involved directly in sending forged call letters and that it had been done by an air force personnel named Chakravir Singh (Mob No. 8449184244) who was working at AF Palam;

4. **AND WHEREAS**, Chakravir Singh (i.e. you) were traced to 16 BRD and you had made a confession on 07 Aug `15 (copy annexed as Annexure ‘A’) thereat, which was duly recorded, in terms of AFO 03/10, by Sqn Ldr P Sharma wherein you *inter alia* brought forth the following:

(a) That consequent to your marriage on 06 Feb 10, you were taking tuitions, after working hours, in a Coaching Centre named ‘New Academy Pvt Ltd’ run by your sister and brother-in-law;

(b) That you were introduced there to a person named Than Singh who promised you that he would place candidates, through the Railway Minister & Railway Chairman quota, in the Railways after paying ‘donation’ and that he could get it done in two months;

(c) That the said than Singh also offered you commission of Rs. 50,000/- (Rupees Fifty Thousand only) on each candidate sponsored through you and quoted a rate of Rs. 4,50,000/- (Rupees Four Lakhs Fifty Thousand only) for a Group ‘D’ post and Rs. 6,00,000/- (Rupees Six Lakhs only) for a Group ‘C’ post in addition to the commission which was to be paid to you.;

(d) That a child was born to you on 07 Nov 10, who was premature and suffered from congenital heart disease on birth;

(e) That you again met the said Than Singh in the beginning of 2011 at the coaching Centre who promised you commission for supplying candidates, which would help for the surgery of your child;

(f) That you told the boys at the Coaching Centre that Than Singh could get their work done and accordingly you paid Rs. 14,50,000/- (Rupees fourteen Lakhs Fifty Thousand only) collected from the boys to the said Than Singh;

(g) That time passed and since Than Singh was unable to get the work done, he introduced you to his contact, Ravi Prakash Tiwari to whom the boys paid another Rs. 5,00,000/- (Rupees Five Lakhs only) through you;

(h) That a further period of two and half years elapsed and pressure started building on you from the boys for returning the money. Further, some of them wanted the job & not the money;

(j) That you had received the following amounts from the persons listed for the railway recruitment;

Name	Amount
Hariom Rana	3 lakhs
Surendra Singh	3 lakhs
Balwant Singh	6 lakhs
Virendra Singh	8 lakhs
Sunil	2 lakhs
Murari	4 lakhs

(k) That in Dec 13, Than Singh told you that he could get boys recruited in the IAF through 'sponsored quota' and that you should get fresh boys whose money could be used to return to the boys who had given money for railway recruitment earlier and that if they did not want the money, they could be diverted for IAF recruitment;

(l) That Than Singh got you introduced to Gudda, who had earlier got people recruited in the Indian Navy. Further, Than Singh told you that since you are in the IAF, people would believe you when you talk about AF recruitment;

(m) That Than Singh explained the modus operandi wherein the boys would neither appear in the exam nor in the medicals. They would stay at a hotel, where their original documents would be collected and on the following day, they would be shown a 'Green Card' and routed home. After 4-5 days, the boys would be given green cards and then he would require the money from your;

(n) That Than Singh quoted a rate of Rs. 5,50,000/- (Rupees Five Lakhs Fifty Thousand only) per candidate and that you sent eight boys to Gujarat from whom you received the amounts as under :-

Name	Amount
Bharat Singh	6 lakhs
Ajay	9 lakhs
Ravindra	9 lakhs
Chatrapal Singh	3 lakhs
Madhav Singh	5 lakhs



Manvendra Singh	5 lakhs
Pushpendra Singh	5 lakhs

- (o) That the process was as explained by Than Singh and after 4-5 days of return of the boys, you received the green cards, which you handed over to the boys, collected the money and handed over to Than Singh, which you had recorded on your mobile;
- (p) That Than Singh also sought candidates from you for the r allies at Bangalore, Kochi, Bhuvaneshwar & Guwahati and in this manner collected Rs. 90,00,000/- (Rupees Ninety Lakhs only) from you;
- (q) That you were then introduced to a person named Sudhir Yadav who introduced you to Mrs. Saxena who claimed to be from the Railway Board, Kolkata;
- (r) That you then gave Rs. 13,20,000/- (Rupees Thirteen Lakhs Twenty Thousand only) for four candidates to the said Sudhir Yadav & that you had video-recorded handing over of Rs. 5,00,000/- (Five Lakhs only) and voice – recorded rest of the transaction;
- (s) That you gave 18 candidates to the said Sudhir Yadav till Dec 14 and that a total of Rs. 46,00,000/- (Rupees Forty Six Lakhs only) had been given to him for the said work;
- (t) That Saxena took Rs. 1,00,00,000/- (Rupees One Crore only) from you, part of which was video-recorded by you;
- (u) That after 30 Apr 15, Than Singh sent you the AISL (All India Seniority List) for airmen recruitment from his email id to your email id, which is saved on your mobile;
- (v) That Than Singh and Gudda then started sending call letters to the candidates with joining dates between 08-10 Jul 15;
- (w) That you saw the joining letters and knew that they were fake;
- (x) That they subsequently sent joining letters with date of joining as 21 Aug 15 to the boys;
- (y) That the total fraud perpetrated by Than Singh, Sudhir Yadav, Sexena & Deepak Rajput for the Air Force and Railway recruitment amounted to close to Rs. 3,00,00,000/- (Rupees Three Crores only).

5. **AND WHEREAS**, you gave an additional confession on 09 Aug 15 (copy annexed as Annexure 'B') to Sqn Ldr P Sharma, which was duly recorded in terms of AFO 03/10, wherein you *inter alia* brought forth the following:

- (a) That in the year 2011, you were misled by Than Singh into supplying candidates for Railway recruitment and that the boys had paid him Rs. 14,50,000/- (Rupees Fourteen Lakhs Fifty Thousand only) through you and that the boys had been supplied through Agents namely Virendra, Balwant Singh, Hari Om and Surendra;
- (b) That when Than Singh could not get the job done, he sought additional money which was handed over to Than Singh in the presence of the boys and that of this, Rs. 5,00,000/- (Rupees Five lakhs only) were handed over to Than Singh in the presence of Gaurav and Balwant Singh;

(c) That Than Singh kept asking you for money and that you kept informing the boys and since the boys wanted the jobs, they kept giving money which you used to give to Than Singh'

(d) That a period of two and half years elapsed in this manner but Than Singh was unable to get the job done and then the boys started putting pressure on you for refund of the money;

(e) that in Dec 13, Than Singh said that he could get job of some of the boys done in Air Force recruitment and that the railway money could be adjusted in this but stated that he could not refund the money collected earlier;

(f) That Than Singh collected a total of Rs. 83,93,000/- (Rupees Eighty Three Lakhs Ninety Three thousand only) from you, of which you had retained Rs. 4,50,000/- (Rupees Four Lakhs Sixty Thousand only);

(g) That Than Sing sent green cards to Ravindra Singh, Ajay Singh, Chatrapal, Bharat Singh, Danveer Singh & Madhav Singh who had gone to Gujarat;

(h) That the following boys, as per your memory, had gone to Ambala, Kochi, Bhuvaneshwar, Bangalore & Guwahati;

(i) Surjeet Singh (ii) Jitendra Singh (iii) Jeetesh (iv) Amit Choudhary (v) Rajkumar Lavania (vi) Pankaj Lavania (vii) Shyam Singh (viii) Gopal Krishna (ix) Rakesh Kumar (x) Geetam Singh (xi) Aarif Khan (xii) Tajuddeen (xiii) Sonu Verma (xiv) Ramu Singh (xv) Suraj (xvi) Gireesh;

(j) That Than Singh kept giving dates and the boys names had never appeared in AISL on the 'Net';

(k) That on 30 Apr 15, a list was forwarded to you by Than Singh on e-mail & he also informed you that joining letters had been forwarded to the boys by post, on seeing which you told Than Singh that they were fake;

(l) That you had paid Rs. 46,00,000/- (Rupees Forth Six Lakhs only) to Sudhir Yadav for railway recruitment, of which Rs. 13,20,000/- (Rupees Thirteen Lakh Twenty Thousand only) had been given you personally;

(m) That since work did not happen through Sudhir Yadav, you had paid Rs. 1,00,00,000/- (Rupees One Crore only) to a person named Saxena who was introduced to you by Sudhir Yadav and that after 21 Apr 15, Saxena had switched off his mobile;

(n) That of the total of Rs. 1,46,00,000/- (Rupees One Crore and Forty Six Lakh only) given to Sudhir Yadav and Saxena, you had retained Rs. 6,00,000/- (Rupees Six Lakhs only);

(o) That a total of Rs. 2,89,00,000/- (Rupees Two Crore and Eighty Nine lakhs only) had been taken by Saxena, Than Singh, Sudhir Yadav & Deepak Rajput for the railway and air force recruitment and that all the transactions were in your knowledge.

6. **AND WHEREAS**, the matter was also investigated by the 2 P&SU and they have submitted a report (annexed as Annexure 'C') wherein the mobile

phone in your possession [Samsung Galaxy Note 3 (IMEI No-351540060270816) and Mob No. 84491 84244) was also analysed and the report *inter alia* brings forth the following:

(a) Video recording. A total of 10 video recordings were found stored in the mobile, brief details whereof are as under:

(i) WP-20140302-001 dated 02 Mar 14. In this video, Mr. Than Singh is seen sitting on the sofa in your drawing room and Rs. 4,00,000/- (Rupees Four Lakhs only) in cash is kept on the table in front of Than Singh and you are talking to Than Singh whilst recording the video;

(ii) WP-20140401-001 dated 01 Apr 14. In this video, Mr. Than Singh is again seen holding bundles of cash which he says are Rupees Four Lakh Ninety Five Thousand. You Son is also seen in the frame;

(iii) WP-20140403-001 dated 03 Apr 14. In this video, Mr. Than Singh is seen with a cheque book and bundles of cash. Mr. Than Singh is seen issuing a cheque numbered 297031 from his SBI bank cheque book, with account number 30413862270, for Rupees Ten Lakhs in the name of 'Chakraveer Chaudhari'. In the video, it can be clearly seen that he is signing four cheques out of which two cheques are for Rupees Ten Lakhs each and the amount on the remaining two cheques is not seen & all the cheques appear to be undated;

(iv) WP-20140422-001 dated 22 Apr 2014. Mr Than Singh is seen sitting in your drawing room and large amount of cash in bundles are kept on the glass table in front of him. In this video, Mr Than Singh accepts that he has received Rupees Thirty Eight Lakhs from you so far and assures you that you shouldn't worry since he has given you cheques as security;

(v) WP-20140619-002 dated 19 Jun 14. In this video also Mr Than Singh is seen holding bundles of cash and he admits that he is holding Rupees Eight Lakh. You also state that you had paid four as advance, making it a total of twelve and two are left, which you would pay once you receive it in your account.

(vi) WP-20140813-002 and WP-20140813-003 dated 13 Aug 14. These two video clips are in continuation. In these two videos you are clearly seen attired in a striped T Shirt and orange coloured shorts. In these two videos; Appx Rupees Ten lakh in cash can be seen on the table and Mr Than Singh and you are discussing about dues and payments made already and that one odd boy is yet to pay;

(vii) WP-20141031-002 dated 31 Oct 14. In this video, you can be heard saying that you are giving 'Four' for the railway job to a person, whom you address as Sudhir Bhai. You also remind him that it is his commitment that as soon as he reaches there, he is supposed to get the orders issued for the boys for training and then joining, which should happen by 13-14<sup>th</sup>. The man replies that his commitment was for the 20<sup>th</sup> and that he was sure of the correctness of the amount as it had come from you;

(viii) WP-20150131-001 dated 31 Jan 15. In this video large amount of cash is seen on the drawing room table in your house and you are seen counting the bundles of cash which is counted to be Rupees Nineteen lakhs.

(ix) WP-20150131-002 dated 31 Jan 15. This clip is in continuation of the previous clip numbered WP-2015-131-001. In this clip it is seen that you are lamenting and saying that how can someone blame you by saying that money has not been paid when money has gone through you and you also say to the person that till now you have already paid Rupees Eighty Eight Lakhs in addition to this Rupees Nineteen lakhs to Sudhir and some other person;

(b) **Whatsapp chats.**

(i) **Chat With Than Singh.**

(aa) On 27 May 15, Than Singh intimates you to deliver the money. You reply that for those for whom it (joining letters) has been received, you have told them to arrange for the money but that 60% of the boys have not received their letters. On Than Singh asking, you forward a list of 11 boys who have not received their letters;

(ab) On 01 Jul 15, you forward a list of 14 boys to Than Singh, which in addition to the list forwarded earlier, contain the names of Bharat Singh (6 ASC), Rahul Sogarwal (7 ASC) & Rajkumar Lawaniya (11 ASC);

(ac) On 06 Jul 15, you implore Than Singh to ensure that Dheeraj Singh Narwar's (letter) is taken out and that you have forwarded the details thereof;

(ad) On 16 Jul 15, you forward the names of Jitesh Kumar (1 ASC), Dheeraj Kumar (9 ASC) & Ramu Singh (14 ASC) to Than Singh;

(ae) on 18 Jul 15, Than Singh asks you to deliver the money to those boys who have received the letters;

(af) On 20 Jul 15, you implore Than Singh to take out the letter of Dheeraj Kumar;

(ag) On 21 Jul 15, you state that the joining letters were to reach by 10<sup>th</sup> but have not reached in respect of Jeetesh Kumar and Ramu Singh although 20<sup>th</sup> was past and say that you were still running around for the money;

(ah) On 22 Jul 15, you state that you are taking out money from the boys and will give it as soon as you receive it;

(aj) On 25 Jul 15, you tell Than Singh to take out the letter of Ramu and say that rupees Six lakh will come from him and say that one boy is arranging for Rupees Eleven Lakhs;

(ak) On 31 Jul 15, you tell Than Singh that the name of your boys i.e. Bharat Singh and luvkush should be deleted from the list and that you want Rupees 10 lakhs (Rupees Ten Lakhs only) on 05 Aug 15;

(ii) Chat With Arif.

(aa) On 16 May 15, on Arif being worried about non-receipt of his joining letter, you assure him that everybody will get the letters;

(ab) On 02 Jun 15, Arif informs you that their joining letters details are not on the internet and fears that they may be fake just like the Railways;

(ac) On 05 Jun 15, Arif cautions you and states that Deepak is not sticking to his word and that money should be given to Deepak for the work done by him and that maximum payment had been made to him with no results;

(ad) On 27 Jun 15, Arif inform you that he has information that remaining payment of Air Force work has not been given by you and they cannot keep this work on further. On the same day, he tells you to not to invest the Air Force payment in the Railway work at which you ask him to inform you about the person who has given you information about the payment;

(ae) On 08 Jul 15, Arif states that he has correct information that you have not given money to the people (*upar*) and that Rupees Eight Lakhs had been returned by them to you;

(af) on 25 Jul 15, Arif informs you that Navi's time is coming close and that you have to manage Rupees 6.5 Lakhs and that he will manage the remaining Rupees Fifty Thousand as he had received it as profit whereat you tell him to deposit it in your ICICI account;

(ag) On 01 Aug 15, you tell Arif that all Railway boys had attached their payment for the Air Force work and some of them were not seeking return of their money and you were asking him whether the same was possible. On the same day, you also state that you had already given Rupees 15.5 Lakhs and that people were pressing for rupees 4.5 lakhs.

(iii) Chat With Ajay Jayapura.

(aa) On 27 Jul 15, you inform Ajay that you want the money at all costs or the letters would have to be returned.

(ab) On 28 Jul 15, you again inform Ajay to arrange for the money and that you had to give them the final answer today.

(iv) Chat With Vishnu. The records of chat from 24 Jun to 09 Aug 15 indicate that you had sent boys for recruitment in the Railways in liaison with Deepak, Saxena and Sudhir and that there were monetary transaction between you and the said gentlemen.

(v) Chat With Manish Bhagor (96348 22261). On 25 May 15, he informs you that 11 boys have reached Gorakhpur at which you inform him that only 10 boys were to reach Gorakhpur and after he lists the names of Mainsh, Pramod, Navin, Narendra, Rohit, Vishnu, Ved Prakash, Rahul, Gajendra, Shankar and Brahmachari, you inform him that Rohit was extra and his work would also be done but first it would be of 10 people.

(c) **SMS messages.**

(i) On 26 May 15, Deepak sends you the following message “Manish, Pramod, Navin Rasool, Virendra, Rahul, Brahmachari, yeh ladke hain jinko pehle bhej dena”.

(ii) On 03 Jun 15, you sent Deepak the following message “tum nahi nikaloge. Mein paise ka intzam karva raha hu.. 9:30 pm baat kartu hu.. k”.

(iii) On 04 Jun 15, you sent Deepak the following message “mein abhi office me hu.. paise A/C me lagva raha hu 12 pm tak..”,

(iv) On 18 Jun 15, Deepak sent you the following message “Ydi Monday ke pahle paise nhi pahuchega to kaam nhi hoga ab hum bhi nhi krenga. Bye”,

(v) On 19 Jun 15, you sent Deepak the following message “jab meine bol diya ki Monday ko ladke bhi aayenge aur paise bhi fir tension kis baat ki hai.. tension muje hone chahiye tumko nahi..”,

(vi) On 20 Jun 15, you sent Shri Krashna the following message “main Delhi se nikal raha hu.. paiso ka intzam rakhna pura apna aur shyam ka..”,

(vii) On 21 Jun 15, you sent Deepak the following message “aaj baat kar karke pareshan ho gaya hu.. ab kal mere pass paise aayega aur kitna aayega ye kal morning pata chalega.. ab morning me paise bath me aane par hi baat karunga..” and “abhi etne logo ke beech me betha hu ki kah nahi sakta.. abhi tak 2.5 lakh collect ho chuke hai”,

(viii) On 21 Jun 15, you sent Deepak the following message “bhai abhi en logo ko bhagakar tumse baat karta hu .. aur paisa bhi 3.0 lakhs collect hua hai...”

(ix) On 22 Jun 15, you sent Deepak the following message “paisa transfer hone wala hai .. vo ladka bank me hai aur mein office me hu...”

(x) On 25 Jun 15, you sent Deepak the following message “Deepak bhai... meine apni puri koshish ki aur saara zor laga diya but mein abhi tak 85 thousand ka intzam nahi kar paaya ... jab mein 19.25 lakh de sakta hut oh ye 85 thousand bhi de dunga....”

(xi) On 26 Jun 15, you sent ‘Sudhir frod second’ the following message “..... Dipak ko meine 19.25 diya hu aur vo 9 ladko ke kaam ka ..ab uska mere par 85 thousand nikal hana hai aur vo ab es paise ke piche mere saare ladko ka kaam hani kar raha hai...”

(xii) On 29 Jun 15, you sent ‘Sudhir frod second’ the following message “.... Sudhir turm 46 lakh dava kar bethe ho agar kal tak usko 85 nahi mile aur mere ladko ka kaam kharab hua...”

(xiii) On 09 Jul 15, you sent Than Singh the following message “Deeraj Singh Narvaar ka letter nikla hai yaa nahi ... abhi tak list vaalo ke pachuche nahi hai” and he replied stating “Sab nikal chuke hain aj kal mein sabko kil jayenge”.

(xiv) On 15 Jul 15, you sent “Sudhir frod second” the following message “tumse 85 thousand ka intzam nahi hua...ab tum mere 46 lakh dage aur har halat me doge..”

(xv) On 22 Jul 15, you sent Bhura Chaudhary the following message “mere paise ka intzam karke rakhna...kam se kam 10 lakhs muje har haal me chahiya... main Sunday taka a raha hu apna paise lene..”

(xvi) On 24 Jul 15, you sent Deepak the following message “Bhai vo verification nikali yaa nahi.... mere uppr bahut pressure aa raha hai. Esliya en ladko ki net par aana bahut jaruri hai... sexena se paise lene hai..”

(xvii) On 31 Jul 15, you sent ‘Sudhir frod second’ the following message “...Deepak ne mere 20 laks liya aura b dhamki aur deta hai... tumne 46 lakhs liya...saxena ne 1.25 crores liye...ab waqt hai tum logo ko sabak sikhane ka..”.

(xviii) On 02 Aug 15 you sent Cpl OP Mohanwari the following message “mere total karza mein tumko eke k paise bhej raha hu...Hariom-12 lakh... surendra-8 lakh... Navi Rasool-6.5 lakh.., Narendra-4.5 lakh..., Ajit-3.0 lakh,.., Yaduvir-7.6 lakh..., Shree Krishn-11 lakh... Gaurav-6.5 lakh, Murari-5.9 lakh, Samarvir-9 lakh,.. Ramprasad-2.5 lakh, Karahara-13 lakh, Ravindra-17 lakh, Sunil-19 lakh, Prem Singh-17 lakh... Ajay-3 lakh... Ramu-1 lakh, Sushil-8 lakh... Kaushal-30 lakh... Aarif Khan-12 lakh, ... Kausal -6 lakh, Rajkumar-6 lakh..., Ramvir -1.2 lakh.., viren-70 lakh: Total- 2.79 cr.”

(xix) On 07 Aug 15, you sent Than Singh the following message “... mere mob par P&S (Af intelligent) se ph aaya but yhe mob gaadi me tha esliya mein receive nahi kar paaya.. pata nahi yaar kahi ladke ne mere khilap complain toh nahi kar diya.”

7. **AND WHEREAS**, your bank accounts with ICICI bank at Agra (Sadar Bazar Branch) Account No.035101510641 were checked by the 2 P&SU and it was found that Rs.11,01,000/- (Rupees Eleven Lakhs and One Thousand only) were deposited in cash or ATM transfer at Agra, Rohtak and Barrackpore during the period 01 Jan 11 to 04 Aug 15. Further, Rs.43,68,561/- (Rupees Forty Three Lakhs Sixty Eight Thousand Five Hundred and Sixty One only) were fund to have been deposited in cash or through ATM transfer at Agra in your ICICI saving bank Account No.035101515002 (Sadar Bazar Branch) during the above said period.

8. **AND WHEREAS**, the entire evidence on record, in the form of you confessions which is corroborated by the material on your mobile phone (video recordings, whatsapp chats, SMS and e-mails) and bank transactions, indicates that you were complicit in running a recruitment scam for procuring employment of civilian candidates in the Indian Railways and the Indian Air Force in return for money, along with civilians namely Than Singh, Sudhir Yadav, Saxena and Deepak Rajput.

9. **AND WHEREA**, the above said facts were brought to the notice of the competent authority i.e. AOC-in-C, MC IAF, who after having

considered the case in its entirety is of the opinion that your above said misconduct has impugned your character as the airman & brought disrepute to the IAF and that your further retention in the IAF is untenable;

**10. AND WHEREAS,** the AOC-in-C has directed to issue you a Show Cause Notice in terms of Rule 18 of the Air Force Rules, 1969, and

**11. NOW THEREFORE,** this Show Cause Notice is issued to you, calling upon you to urge reasons as to why you should not be 'Dismissed' from the service under Section 20(3) of the Air Force Act, 1950, read with Rule 18 of the Air Force Rules, 1969. Your reply, if any, is to be submitted to your CO within ten (10) days from the receipt of this Show Cause Notice, failing which it shall be presumed that you have nothing to urge in your defence and action as deemed appropriate shall accordingly be taken.

12. This Show Cause Notice is issued on the orders of the AOC-in-C MC, IAF.

(Vishal Chopra)  
Squadron Leader  
Command Discipline Officer

**Annexure: As Stated**

Received original copy of the Show Cause Notice on 21 Aug 15 at 1345 hrs

Service No.787880S Rank Cpl

Name C Chaudhari Trade SEW Signature.”

9. A perusal of the aforesaid show cause notice given to the applicant shows that the show cause notice was given to the applicant under Rule 17 which is the only requirement before taking an action under Section 20(3) of the Air Force Act.

10. So far as argument of double jeopardy is concerned, we do not find any substance in the submission of the learned counsel for the applicant. Only an FIR was lodged against the applicant. However, neither the applicant nor the counsel for the applicant have any information whether on the said FIR, any charge sheet has been filed or the applicant is facing criminal trial.

11. Learned counsel for the applicant has placed reliance of the Hon'ble Apex Court in the case of **Aghnoo Negesia vs. State of Bihar** (AIR 1966 SC 119) and on the basis of this case law, it is argued that the confession of



the accused, cannot be considered as substantive evidence and therefore, no conviction can be sustained. We simply fail to understand as to how this case law is beneficial to the applicant. The said view has been expressed by the Hon'ble Apex Court in a criminal appeal. Standard of proof required to be established in a criminal trial is entirely different. In order to convict a person for a criminal offence, the prosecution is obliged to prove its case beyond all reasonable doubts, while administrative action can be initiated only on the basis of the satisfaction of the competent authority and preponderance of possibilities and as such is not as high as required under law as in the case of criminal trial. In view of this fundamental difference, this case law has no application in the instant case.

12. Hon'ble Apex Court in the case of **M.V.Bijlani vs Union of India & others** [(2006) 5 SCC 88] has held in Para 25 as under:

*“25. It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with.”*

13. At this stage, we would like to have a glance of the legal position regarding scope of the Tribunal in interfering the administrative actions. The Hon'ble Apex Court in the case of **Union of India vs. P Gunasekaran** (2015 (2) SCC 610) has held in Paras 12 and 13, which reads as under:

*“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the inquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers*

*under Articles 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:*

- (a) the inquiry is held by a competent authority;*
- (b) the inquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

*13. Under Articles 226/227 of the Constitution of India, the High Court shall not:*

- (i) re-appreciate the evidence;*
- (ii) interfere with the conclusions in the inquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

The aforesaid judgment has again been followed by the Hon'ble Apex Court in the case of **Central Industrial Security Force & Others vs. Abrar Ali** (2017) 4 SCC 507.

14. Apart from it, the applicant has been dismissed from service administratively for his misconduct, while an FIR has also been lodged against him for punishment of the criminal offence. So these are the two different aspects and cannot be said to be double jeopardy. If this argument of the learned counsel for the applicant is found to have substance, then a person who commits murder cannot be dismissed from service and when he is convicted by the court, even then he cannot be dismissed from service because it would amount to double jeopardy, while the legal position is entirely different. Therefore, the argument of double jeopardy of the learned counsel for the applicant is misconceived. Administrative action and trial for criminal offence are entirely different.

15. During the course of arguments, learned counsel for the applicant has nowhere argued as to how a very huge amount of about sixty lacs rupees were deposited in the bank account of the applicant. When we specifically put a query to the learned counsel for the applicant during the course of arguments, then he said that it is his agricultural income. The applicant has nowhere pleaded that how much land he possesses and where he sold his agricultural produce and who is the person who credited such huge amount for agricultural produce to the bank account of the applicant.

16. While in the reply to the show cause notice, applicant has stated that his father has only 14 Bighas of land. He earned some money from coaching and took loan from others for potato crops. This explanation does not inspire confidence as the land was very little and was in the name of the father of the applicant. Since the applicant was in service, hence it was being managed by his father. Whether such huge amount also existed in the account of his father, on this count, applicant is silent. There are video calls, chats and SMS which were before the competent authority and the only conclusion that can be arrived at on the basis of these materials was that the applicant played a vital role in this recruitment racket. Confessional statement of the applicant is also detailed and has been duly signed by the applicant on each page.

17. We simply fail to understand that an Army Jawan having a few years of service, how can he accumulate such a huge amount. Therefore, the argument of the learned counsel for the applicant that this amount is the return his agricultural produce, has absolutely no substance. The deposits of such huge amount were disproportionate to his known sources of income. When we go through the report of the Air Force Police and also the show cause notice given to the applicant that the offence committed by the applicant was very serious nature, that apart the applicant during the course of investigation, has made a confession that he was involved in such recruitment racket. However, learned counsel for the applicant has stated that such a statement was procured under coercion. It is submitted that said confession was recorded during the investigation by the Air Force Police, was barred by Section 24 of the Indian Evidence Act, 1872. Section 24 of the Indian Evidence Act, 1872 reads as under:

*“24. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.—A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise,<sup>1</sup> having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.—A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise,<sup>2</sup> having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.”*

18. A bare perusal of the aforesaid section shows that it is only with regard to criminal proceedings and it is not at all applicable to the disciplinary proceedings/administrative actions. That apart under Section 133 of the Indian Evidence Act. Testimony of an accomplice can also be acted upon when corroborated in material particular. In the instant case, the confession of the applicant stood corroborated in material particular by

huge amount of money transaction in his bank accounts. Section 133 of the Indian Evidence Act reads as under :

*“133. Accomplice.—An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.”*

19. So far as the argument of the learned counsel for the applicant regarding the non compliance of Air Force Rule 24 is concerned, Air Force Rule 24 appears under the Chapter “Investigation of charges and trial by Court-Martial”. Thus, Rule 24 deals with investigation which is conducted prior to Court Martial. In the instant case, the applicant has never been tried by the Court Martial nor there was any proposal to try him by Court Martial. He has been dealt with administratively in exercise of power under Section 20(3) of the Air Force Act.

20. It has also been argued that the applicant has been made a witness against himself, which is against the settled principle of the criminal law. We do not find any substance in the submission of the learned counsel for the applicant because the applicant was not made a witness against himself, but he was only examined in the enquiry to know the facts as to how the recruitment racket was done and in that case, the applicant has given his statement admitting his involvement in the said racket. The said statement cannot be used against the applicant when he is tried in criminal trial in view of the settled principle of law. However, the disciplinary authority dealing with administratively has discretion to take the same into consideration to form his opinion.

21. It has also been argued that in this case no Court of Inquiry was conducted. Requirement of Rule 18 of the Air Force Rules, 1969 is only to issue show cause notice, which reads as under:

*“18. Dismissal or removal of a person subject to the Act other than an officer.— (1) Save in a case where a person subject to the Act other than an officer is dismissed or removed from the service on the ground of conduct which had led to his conviction by a criminal court or a court-martial, no such person shall be dismissed or removed under sub-section*

*(1) or sub-section (3) of section 20 unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service.*

*(2) Notwithstanding anything contained in sub-rule (1), if in the opinion of the officer competent to order the dismissal or removal of such person, it is not expedient or reasonably practicable to comply with the provisions of sub-rule (1), he may, after certifying to that effect, order the dismissal or removal.*

*(3) All cases of dismissal or removal without complying with the procedure prescribed in sub-rule (1) shall, without delay, be reported to the Central Government.”*

22. Admittedly in this case, a very detailed show cause notice was issued to the applicant which was also replied by him. It has also been argued that the applicant has been kept under detention for a longer period which is not permissible under Rule 22 of Air Force Rules, 1969. Rule 22 of Air Force Rules, 1969 reads as under :

***“22. Manner and extent of custody pending trial or confirmation of court-martial proceedings.—***

*(1) Any person subject to the Act who has been ordered into air force custody by a competent authority may be taken into such custody in accordance with the usages of the service:*

*Provided that while being held for trial or after trial pending confirmation of the proceedings, the arrest or confinement imposed upon him shall not be more rigorous than the circumstances require to ensure his physical fitness and security.*

*(2) Detention in air force custody beyond a total period of sixty days whether continuously or in broken periods, of a person subject to the Act, who is not on active service and for whose trial a court-martial has not assembled, shall require the sanction of the Chief of the Air Staff or any other officer duly authorised, with the approval of the Central Government, by the Chief of the Air Staff in that behalf.*

*(3) The Chief of the Air Staff or such other officer may sanction further detention of such person as is described in sub-rule (2) for a specific period, which he may extend from time to time, provided that the total period of detention under sub-rule (2) and this sub-rule, whether continuous or broken, shall not exceed ninety days.*

*(4) No such person as is described in sub-rule (2) shall be detained in air force custody beyond a period of ninety days, whether continuously or in broken period except with the approval of the Central Government.*

*(5) As soon as the proceedings of a court-martial have been received by an officer having powers to confirm them, that officer shall, as soon as may be, order the release (without prejudice to re-arrest) of the accused if the finding of the court-martial is "not guilty" on the charge, or where there are more charges than one, on all the charges, on which he was tried.*

*(6) Where the sentence awarded by a court-martial is lower in the scale of punishments set out in section 73, than dismissal, the officer referred to in sub-rule (5) shall either order the release of the accused person without prejudice to re-arrest or at his discretion, order that the accused person shall be kept under open arrest.*

*(7) No person shall be detained in air force custody pending confirmation of the proceedings of a court-martial, for a period in excess of the term of imprisonment or detention to which the court-martial has sentenced him."*

23. A perusal of the aforesaid rule shows that the said rule talks about the detention, which is during the pendency of the Court Martial proceedings, while in the instant case no Court Martial proceedings have been initiated against the applicant nor any Court Martial proceedings have been contemplated against the applicant and only an FIR was lodged against him. By the impugned order, the applicant has been dealt with administratively which is nowhere the case of the applicant that the officer who passed the order, was not competent to pass the said order. Even if we presume that he was detained for longer period than prescribed, that would only make his detention illegal and would not render the order of dismissal illegal

24. In view of the discussions, made herein above, this O.A. deserves to be dismissed and is hereby **dismissed**.

**(Air Marshal BBP Sinha)**  
**Member (A)**

Dated: May, 2019  
PKG

**(Justice SVS Rathore)**  
**Member (J)**