

RESERVED
Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 968 of 2023

Tuesday, this the 8th day of April, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Vice Admiral Atul Kumar Jain, Member (A)

Agniveer No. A3201550-F AV (DMT) Ankur Rana
S/o Shri Ashok Singh
R/o Village – Sawant Khedi, Nanauta Dehat,
Dist – Saharanpur (UP) - 247452

.... Applicant

Ld. Counsel for the Applicant : **Shri VP Pandey**, Advocate
Shri RK Singh, Advocate
Maj SM Mustafa (Retd), Advocate
Shri Rajesh Kumar Pundir, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence (Army), New Delhi-110011.
2. The Chief of Army Staff, IHQ of MoD (Army), South Block, New Delhi-110011.
3. Commanding Officer Training, 11/3 Training MT Regiment, Artillery Centre Hyderabad-500031.
4. Officer incharge Records, Artillery Records, Nasik Road Camp (M.H.) – 422102.

... Respondents

Ld. Counsel for the Respondents : **Shri Arun Kumar Sahu**,
Central Govt Counsel

ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the applicant has sought following reliefs:-

- “(a) To issue/pass an order or direction to the respondents to quash/set-aside the impugned order.
- (b) To issue/pass an order or direction to the respondents to permit the applicant to rejoin the training.
- (c) Any other relief as considered proper by this Hon’ble Tribunal be awarded in favour of the applicant.
- (d) Cost of the Original Application be awarded to the applicant.

2. Brief facts of the case are that the applicant was enrolled in the Indian Army on 25.12.2022 as Agniveer. His Basic Military Training started at Artillery Centre, Hyderabad w.e.f. 01.01.2023. While undergoing training, the applicant reported sick at Centre Medical Investigation Room on 27.01.2023. The applicant was admitted in different hospitals and after investigation and treatment, applicant was finally discharged from Army Institute of Cardio Thoracic Sciences, Pune on 22.04.2023 and rejoined Artillery Centre, Hyderabad on 23.04.2023. Total absence period of the applicant from training from 27.01.2023 to 23.04.2023 is 68 days. As per HQ ARTRAC policy letter No. 10010/CAT-B/Trg/B dated 17.11.2022, **‘if an Agniveer misses more than 30 cumulative days of training for any reason, he is liable to be released from service’** and accordingly, the applicant was released from service on 12.05.2023. Being aggrieved with procedure of discharge from service, the applicant has filed the present Original Application.

3. Learned counsel for the applicant submitted that the applicant was enrolled in the Army in Agniveer General Duty after qualifying the rally screening on 01.10.2022. The applicant was admitted in Military

Hospital, Secunderabad on 26.01.2023 with a complaint of having pain ABD and Dry Cough. He was examined and was further transferred to Army Institute of Cardio Thoracic Science (AICTS), Pune. After investigation, the applicant was diagnosed a case of “Biliary Colic with Symptomatic Gall Stone Disease”. The applicant was discharged from AICTS, Pune Hospital on 22.04.2023 from the ward of Respiratory. The applicant was discharged from service after having served for 136 days in the Army and the reason for discharge was given as absent from training for more than 30 days.

4. Learned counsel for the applicant further submitted that when the applicant was inducted in the service, he was medically examined by the medical authority as such discharge from service without being given treatment and ascertaining that the applicant is now completely cured, he would have been allowed to rejoin training and complete the remaining training period. The discharge of the applicant is not only illegal but arbitrary and against the fundamental right guaranteed in Article 21 of the Constitution of India. In this case, no Invaliding Medical Board was conducted and without recommendations of Invaliding Medical Board, the applicant could not have been discharged from service. Besides this, absence on account of admission in Military Hospital for treatment can be treated as on duty as such the applicant could have been relegated to another batch for undergoing/completion of training. The discharge of the applicant is bad in the eyes of law. In the regard, applicant placed reliance on the judgment of Hon’ble Apex Court in the case of **KD Gupta vs. Union**

of India and Another, 1984 (1) SCC 153, decided on 10.08.1983 and this Tribunal judgment in O.A. No. 174 of 2015, **Ex Nk Jageshwar Singh vs. Union of India & Others**, decided on 04.12.2018 and prayed to quash discharge order of the applicant and to grant permission to rejoin service to complete basic military training.

5. On the other hand, Ld. Counsel for the respondents submitted that applicant was enrolled in the Indian Army on 25.12.2022 as Agniveer. His Basic Military Training started at Artillery Centre, Hyderabad on 01.01.2023. While undergoing training, the applicant reported sick at Centre Medical Investigation Room on 27.01.2023. The applicant was admitted and further referred to Military Hospital, Golconda and from there he was further referred/transferred to Military Hospital, Secunderabad on 28.01.2023 and remain admitted till 11.02.2023. After investigation and treatment, the applicant was further referred to Army Institute of Cardio Thoracic Sciences, Pune and after detailed investigation and treatment, the applicant was discharged from Army Institute of Cardio Thoracic Sciences, Pune on 22.04.2023 and rejoined Artillery Centre, Hyderabad on 23.04.2023. Total absence period of the applicant from training from 27.01.2023 to 23.04.2023 is 68 days (excluding Sundays and Holidays). The applicant was also given excuse from PPG/BPET/prolonged standing duties for four weeks by the medical authorities. In the Medical Case Sheet written by the Medical Specialist at Army Institute of Cardio Thoracic Sciences, Pune, it is stated that '*in view of his lung disability*

and not being able in SHAPE-1 within 30 days of admission, it is recommended that the Agniveer be released from the service'. As per Para 4 (b) of HQ ARTRAC policy letter No. 10010/CAT-B/Trg/B dated 17.11.2022, 'if an Agniveer misses more than 30 cumulative days of training for any reason, he is liable to be released from service'. In the instant case, no recommendation was given by the Medical Specialist for carrying out Invalid Medical Board and case for release of the applicant from service due to absence from training for more than 30 cumulative days was processed through proper channel and applicant was released from service on 12.05.2023 after taking approval/sanction of the Centre Commandant.

6. Learned counsel for the respondents further submitted that as per para 4 (b) and 9 (b) of the HQ ARTRAC policy letter dated 17.11.2022, Para 4 of the Medical Case Sheet written by the Medical Specialist at AICTS, Pune and para 26 of the Discharge Slip given by AICTS, Pune, applicant has been discharged from service as per rules and policy and Original Application is liable to be dismissed being devoid of merit and lacking substance.

7. We have heard learned counsel for the parties and perused the material placed on record.

8. In the instant case, Para 4(b) and 9 (b) of HQ ARTRAC policy letter dated 17.11.2022 being important/relevant are reproduced as under :-

4 (b) Missing Training. *If an Agniveer misses more than 21 consecutive and upto a max of 30 cumulative days of training*

during the entire training duration, owing to any reason, he/she will be given additional training upto four weeks so as to complete the training schedule. Individual missing more than 30 days of cumulative training for any reason will be liable to be released. For calculation of 21 consecutive/30 cumulative days of missing training, following absence period will be included :-

- (i) Admission in Hospital, including Attend "C" /Bed Rest.
- (ii) Sick Leave.
- (iii) Absent without Leave (AWL)/Overstaying Leave (OSL), if Special Leave taken.
- (iv) Excused physical activity (i.e. Excused PPG) and organized training activities (each day accounting for 25% absence – i.e. total of 84 consecutive/cumulative days).

Note. Sundays and holidays observed by the Training Centres, absence due to organised activity or any other reason beyond control of the Agniveer will not be counted towards the training period thus missed.

9. **Ground for Release from Service.**

- (b) **Missing Training.** If an Agniveer misses more than 30 days of cumulative training for any reason, he/she will be liable to be released from service.

9. Before advertent to rival submissions of learned counsel of both sides, it is pertinent to mention that judgments relied upon by the applicant in Para 4 referred to above are not relevant in the present case being based on different facts and circumstances and therefore, the applicant cannot be given the benefit of aforesaid judgments being an Agniveer.

10. In this case, the applicant was enrolled in the Army on 25.12.2022 and his Basic Military Training commenced w.e.f. 01.01.2023 and during the training period, the applicant reported sick on 27.01.2023 and remain admitted in different hospitals for investigation/treatment and thus he was absent from training from 27.01.2023 to 23.04.2023 for a total period of 68 days. Since, applicant's absence from training was more than 30 days, he was

liable to be released from service as per Para 4 (b) and 9 (b) of Headquarters Army Training Command policy (**Policy:Detention for Additional Training and Release of Agniveer During Training at Centres**) letter dated 17.11.2022.

11. In view of aforesaid observation/discussion, we are of the view that the applicant being an **Agniveer** missed more than 30 cumulative days of training, he was liable to be released from service as per Agniveer Policy letter dated 17.11.2022 and accordingly, he was released from service on 12.05.2023 after taking necessary approval/sanction of the competent authority, i.e. Centre Commandant. Hence, the applicant is not entitled for the reliefs prayed to quash his discharge order and to reinstate him to rejoin the training.

12. In the result, we do not find any illegality or arbitrariness in discharging the applicant from service on the ground of cumulative absence from training for more than 30 days as per Agniveer policy. The Original Application deserves to be dismissed and is accordingly **dismissed**.

13. No order as to costs.

14. Pending Misc. Applications, if any, shall stand disposed of.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated: April, 2025
SB

(Justice Anil Kumar)
Member (J)