

Reserved Judgment**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****(CIRCUIT BENCH AT NAINITAL)****ORIGINAL APPLICATION NO. 130 OF 2018****Friday this the 16th day of August, 2019****Hon'ble Mr. Justice Virender Singh, Chairperson
Hon'ble Air Marshal BBP Sinha, Member (A)**

No.897483-G Ex. AC(U/T) Hridayesh Maithani
S/o Shri Rakesh Chandra Maithani,
R/o Village & PO Makku
Tehsil Ukhimat
District Rudraprayag.

..... Applicant

Ld. Counsel appeared for the Applicant - Shri Mangal Singh Chauhan
Advocate

Versus

1. Union of India through its Secretary,
Ministry of Defence,
New Delhi.
2. The Chief Controller (Defence Accounts), Pension,
Allahabad (U.P.)
3. The Chief of Air Staff,
Air Force Head Quarters,
New Delhi.
4. Commanding Officer, Mechanical Training Institute,
Air Force Tambaram,
Chennai 600046 (TN).

..... Respondents

Ld. Counsel appeared for the Respondents - Shri Rajesh Sharma,
Central Government Counsel

ORDER

“Hon’ble Air Marshal BBP Sinha, Member (A)”

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 set aside the impugned rejection order dated 15.11.2017 passed by the respondent No.1 in contravention of the Air Force rules.

(b) To issue a direction to the respondent No.1 to provide the Improvement chance to petitioner considering the marks secured by him in the part-III and IV examination.

(c) To issue any other order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances the case.

(d) Award the cost throughout.”

2. In brief the facts necessary for the purpose of this O.A. may be summarised as under :

The applicant was enrolled in the Indian Air Force as a trainee in the technical stream of Indian Air Force on 01st July 2015. As per policy he was to be trained as per Integrated Pattern of Training (IPT). He had undergone his basic phase of training at Basic Training Institute C/o Airmen Training School, Belgavi. After successful completion of basic phase of training, he was posted to Mechanical Training Institute w.e.f. 22nd December 2015 for trade phase training i.e. profession based training. In this Training, the applicant could not cope up with the academic standards required by the organisation for successful completion of training. He was given a series of caution letters, warning letters, counselling interviews and after regular counselling and additional coaching classes, the applicant managed to clear the term end test (TET) of Ist term of his training and thereby passed and continued his training in Term-II. In second term his

academic performance continued to be poor, he was again given a series of counselling sessions, issued with caution and warning letters and despite all these organisation efforts when he didn't show any improvement, he was back phased to take training with his juniors who had just joined Term-II. After back phasing also he continued to be weak in academics and was once again identified as a 'Weak Trainee'. He was once again given a series of counselling session, caution letters and warning letters. His parents were informed about his performance. He was reportedly counselled to improve his performance by taking more interest and putting hard work towards his studies. However despite all organisation efforts he failed to pass the final examination of Term-II. Since he was already back phased once in term II, therefore as per training policy, the applicant was issued with a show cause notice, his case was considered by the 'Station Review Board' and he was recommended for 'Cease Training and Discharge from Service'. It is in this background that the applicant has approached this Tribunal with his O.A.

The learned counsel for the applicant claimed that the applicant had an excellent academic career before joining IAF as he was doing his B.Tech degree course. He claimed that the applicant was suffering from Eye flue, therefore he could not secure 50% marks required for passing the examination. He prayed that the applicant must be permitted a chance to improve his performance otherwise his entire career would be spoiled. He submitted that the parents of applicant have also been making representation to concerned authorities to permit one more chance to the applicant, however there has been no favourable response from respondents. He pleaded for cancellation of discharge order of the applicant and permitting him one more chance for improvement.

3. On behalf of the respondents, it has been submitted that the Indian Air Force is holding modern generation aircraft in its inventory

and these aircraft are required to be maintained at highest serviceability state for its effective utilization during peace and war. For this purpose, the IAF is highly dependent on its technical manpower who plays a vital role in maintaining these modern generation aircraft held on its inventory. The system providing training in IAF has been formulated in such a way that individual having the right aptitude, attitude and skill only move ahead successfully to become the technical manpower of the IAF. In the instant case the trainee had failed to achieve the minimum required standards. Acceptance of below standard personnel may cause irreparable loss not only to the organization but also to a large No. of Pilots and other personnel of IAF. Considering the above, it is informed that the claim of the applicant for one more chance is not justified and devoid of merit as he had been provided adequate opportunities to improve himself during his training. From the induction phase itself, the applicant has remained a weak trainee and despite all the guidance, counselling, mentoring and additional coaching classes provided to him, he remained a weak trainee and did not show any fruitful step to improve his performance. That the applicant had been given several chances to improve his academic performance at every stage of his training, however he failed to show improvement. Further, the applicant was even back phased to give him more time to improve himself, however, the applicant could not succeed and, therefore, he was discharged from service.

4. We have heard both the sides and perused the record in detail. The only question which we need to answer in this case is as to “whether the applicant has been discharged during training in a fair manner and as per the laid down procedure of technical training in IAF”.

5. After perusal of the records and hearing both the sides, following facts are clear to us :-

(a) That the only plea of the applicant is to set aside his discharge and give him one more chance to improve his academic performance.

(b) That though the applicant was doing his 'B.Tech' before joining IAF, he was showing weakness in academics right from his Basic phase of training onwards.

(c) His academic weakness got more magnified after his completion of basic training and start of professional training called as 'Trade Phase Training'.

(d) He barely managed to clear his term I of trade phase training with lots of counselling session, caution and warning letters and extra coaching classes.

(e) He could not clear his Term II examination despite extensive counselling, caution letters and warning letters and was back phased to repeat term II with his juniors.

(f) That despite back phasing, he could not improve and once again failed in the final examination of Term II. It is significant that the final examination in term II is conducted by an external agency called 'Regional Examination Board'(REB).

6. In this background and after perusing the details of counselling register having details of periodic counselling given to applicant, details of periodic caution letters and warning letters and the policies as applicable, we are of the considered opinion that the respondents have been very fair and have given numerous opportunities and chances to the applicant to improve himself at all stages of training. Therefore we don't find any merit in the contention of the learned counsel for the applicant that the applicant's discharge should be set aside and he should be given one more chance to improve himself. We also don't find any merit in the defence that the applicant could not pass his examination due to being inflicted with Eye flue. It is

amply clear that the applicant has a long history of poor performance and failures during his entire IAF training.

7. We also want to make it clear that we agree with the contention of the respondents that in IAF what goes up in the air must land back safely. In this age of his technology, IAF can ill afford to compromise on the quality of its technical manpower who are responsible for keeping the flying machines in a safe and serviceable condition. In this context, we would also like to clarify that the status of a trainee in IAF is like a probationer and therefore if he fails to meet the organisational requirements during training, the respondents have every right to discharge him from training and service. This aspect of law has been clearly established by the Hon'ble Supreme Court vide its judgment in the case of *Union of India & Others vs. Manoj Deswal & Others*, reported in (2016) 15 SCC 511.

8. Thus in the light of the above mentioned facts, the submission of the learned counsel for the applicant that he could not have been discharged from service without holding a proper enquiry, has no substance. Since the applicant had failed to clear the Technical Trade Training examination several times, therefore, he could not have been retained in the Air Force and the respondents were justified in discharging the applicant from service as UNLIKELY TO BECOME AN EFFICIENT SOLDIER after following the due process. Thus, we find no illegality, irregularity or impropriety in the order passed by the respondents.

9. O.A. No. 130 of 2018 has no merits, deserves to be dismissed and is hereby **dismissed**.

(Air Marshal BBP Sinha)
Member (A)

(Justice Virender Singh)
Chairperson

Dated: August 16, 2019
PKG/SB