

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW
(CIRCUIT BENCH NAINITAL)**

O.A. No. 398 of 2019

Tuesday, this the 3rd day of August, 2021

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

No. 4095776P Vet Rfn Naveen Singh Rana S/O Sri Survir Singh Rana, R/O Village-Bharangaon, Tehsil-Dunda, District-Uttarkashi, Uttarakhand, presently R/O 31/2, New Pould House Colony, Near Vikas Bhawan, Ladari Uttarkashi, District-Uttarkashi, Uttarakhand.

..... Applicant

Ld. Counsel for the: **None from applicant**, Advocate
Applicant

Versus

1. Union of India through the Secretary, Ministry of Defence, Central Civil Secretariat, New Delhi.
2. Chief of the Army Staff, Integrated Headquarters, Ministry of Defence (Army), New Delhi.
3. Commanding Officer, B Coy, 14 Garhwal Rifles, C/O 56 APO.
4. Senior Record Officer, The Garhwal Rifles, PIN-900400, C/O 56 APO.

..... Respondents

Ld. Counsel for the : **Shri Neeraj Upreti, Advocate.**
Respondents Central Govt Counsel.

ORDER (Oral)

1. The instant Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant with the following prayers :-

“(i) The Hon’ble Tribunal may graciously be pleased to set aside the impugned discharge certificate dated 30.09.2018 and to direct the respondents to reinstate the services of the applicant with all consequential benefits.

(ii) Such other suitable order be deemed fit and proper in the facts and circumstances of the case may also kindly be passed to meet the interest of justice.

(iii) Interim Relief- The Hon’ble Tribunal may graciously be pleased to direct the respondents to reinstate the service of petitioner and he may be paid admissible salary and allowances applicable to him on the post held by him during pendency of present application.

2. Brief facts of the case are that having been enrolled in Army on 17.09.2013, applicant was posted to 14 Garhwal Rifles on 22.08.2014. While serving with 14 Garhwal Rifles, applicant had submitted an application for premature discharge from service by mentioning that he is not able to carry out Army activities and also not willing to serve anymore in the Army. His premature discharge application was sanctioned by Commanding Officer on 10.11.2017 and discharge order was issued vide letter dated 08.12.2017 to proceed on discharge at his own request w.e.f. 30.09.2018 in terms of Army Rule 13 (3) III (iv) of the Army Rules, 1954. Later, on 30.10.2018 applicant through his counsel Shri VS Rawat, Advocate approached Records Garhwal Rifles to provide certain documents

which were supplied to him vide letter dated 17.11.2018. This O.A. has been filed to quash discharge certificate dated 30.09.2018 and for re-instating applicant in Army service.

3. During the course of hearing learned counsel for the applicant was not present. In the O.A. learned counsel for the applicant pleaded that during the course of applicant's employment in Army, he suffered ailment related to mental stress resulting in hospitalization. Applicant's learned counsel further pleaded that discharge application was never given by applicant and the said discharge application would have been got signed under coercion when he was under mental trauma. Learned counsel for the applicant further pleaded that the fact, that applicant's premature discharge application was submitted to Records for sanction, was never communicated to his family members, therefore, the aforesaid discharge is illegal and arbitrary. He pleaded that applicant be reinstated in Army with full pay and allowances.

4. On the other hand, submission of learned counsel for the respondents is that the applicant had himself given application for premature discharge and the same was sanctioned in accordance with rules. His further submission is that the respondents have discharged applicant by following due procedure as per Army Rules, 1954 and there is no provision for reinstating a person in Army who has given application to proceed on discharge voluntarily. He pleaded for dismissal of O.A.

5. We have heard learned counsel for the respondents and perused the records. No one being present from the side of

applicant, his version could not be heard, however, considering facts of the case we are deciding the case on merit.

6. It is undisputed fact of the parties that applicant was enrolled in the Army on 17.09.2013 and he was discharged from service w.e.f. 30.09.2018 on receipt of his premature discharge application which was processed as per procedure in vogue. In para 4.12 of O.A. applicant has mentioned that he had given no such application for premature discharge but perusal of records reveal that applicant himself had given such an application dated 09.11.2017. For convenience sake extract of application dated 09.11.2017 is as under:-

“प्रेषक- न० 4095776पी राइफलमेन
नवीन सिंह राणा
‘ख’ कंपनी
14 गढ़वाल राइफल्स
प्रेषित- कमान अधिकारी महोदय
14 गढ़वाल राइफल्स
द्वारा 56 सेनापत्रालय
(द्वारा निर्धारित प्रणाली)
अपनी स्वेच्छा से सेना सेवा से सेवानिव्रत्ति चाहाने हेतु प्रार्थना पत्र

महोदय,

सविनय निवेदन इस प्रकार से है कि मैं उपरोक्त न० 4095776पी राइफलमेन नवीन सिंह राणा विगत 04 वर्षों से ‘ख’ कंपनी 14 गढ़वाल राइफल्स में सेवारत हूँ, महोदय मेरी समस्या इस प्रकार से है कि मैं सेना की गतिविधियों को करने में असमर्थ हूँ और मेरी सेना में सेवा करने की इच्छा नहीं है जिस कारण से सेना में सेवा करने में असमर्थ हूँ । और मैं बिना किसी बाहरी दबाव के अपनी स्वेच्छा से सेना से सेवानिव्रत होना चाहता हूँ तथा भविष्य में सेवानिव्रत होने के लिए किसी को भी जिम्मेदार नहीं ठहराऊंगा और न ही सेना के विरुद्ध कोई भी कानूनी या गैरकानूनी कार्यवाही करूंगा ।

अतः महोदय से विनम्र निवेदन है कि प्रार्थी को सेना सेवा से सेवानिव्रत्ति दिलाने की महती कृपा कीजिएगा प्रार्थी आपका आजीवन आभारी रहेगा ।

प्रार्थी,

(

सिग्नेचर)

न० 4095776पी राइफलमेन

नवीन सिंह राणा

‘ख’ कंपनी, 14 गढ़वाल राइफल्स

7. From the aforesaid, it appears that applicant had himself given aforesaid premature discharge application which was recommended on 09.11.2017 and sanctioned on 10.11.2017. On the basis of recommendation of the Commanding Officer, premature discharge was

sanctioned vide letter dated 08.12.2017 to proceed on discharge w.e.f. 30.09.2018. There seems to be no foul play on the part of the respondents that applicant was forced to write down volunteer application for premature discharge. The submission of learned counsel for the applicant that applicant was forced to write down the application for his discharge does not appeal to us inasmuch as nothing has been brought on record to show that the applicant was forced to write down the application under coercion. It is nowhere mentioned in the O.A. that either the Commanding officer or any junior officers in the Centre were in any way biased or prejudiced to the applicant. In the circumstances, it does not commend to us for acceptance that applicant was forced to write down application for premature discharge. From the contents of the application, it appears to us that the application was written by the applicant voluntarily and without being coerced into writing it. Thus, we find no illegality, irregularity or impropriety in the order passed by the respondents to discharge applicant at his own request. Applicant is therefore, not entitled to be reinstated into service at this stage, more so, when he has given voluntarily application for premature discharge.

8. In view of the above, O.A. No. 398 of 2019 has no merits, deserves to be dismissed and is hereby **dismissed**.

9. No order as to costs.

10. Pending miscellaneous applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 03 Aug, 2021
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