

Court No 2
(RESERVED)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION NO. 33 of 2022

Thursday, this the 24th day of August, 2023

Hon'ble Mr. Justice Anil Kumar, Member (J)

Hon'ble Maj Gen Sanjay Singh, Member (A)

No. JC-829335F Subedar Asha Ram (Retd) son of Late Shri Raghunath, Resident of Village and Post-Babuapur, District-Faizabad-224161(UP)

.....Applicant

Ld. Counsel for the: **Shri Raj Kumar Mishra, Maj Vinay Sharma and Shri Kapil Sharma - Advocates**
Applicant

Versus

1. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence (Army), Army Headquarters, South Block, New Delhi - 110011.
2. GOC Paschim Uttar Pradesh Sub Area, Meerut.
3. Records, The Pioneer Corps, PIN-900493, C/O 56 APO.
4. Commanding Officer, 40 UP Bn NCC, Sikanderabad, District-Bulandshahar, PIN-203202.
5. Commander NCC Group Headquarters, Gaziabad, PIN-201002.

.....Respondents

Ld. Counsel for the : **Dr. Shailendra Sharma Atal, Advocate**
Respondents. Central Govt Counsel

ORDER

1. This O.A. has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant whereby the applicant has sought following reliefs:-

(A) Direct the Respondents to pay the following amount of the applicant which is his legitimate entitlement:-

(a) Amount for the accommodation charges @ Rs 4000.00(Four Thousand only) for nineteen months making it to Rs 76000.00 (Seventy Six Thousand).

(b) Amount for the messing for 19 months @ 250.00 per day for 19 months making it a total of Rs. 1,42,500.00 (Rupees one lakh forty two thousand, five hundred only).

(c) Amount for the Transportation Charges from Gaziabad (Kavi Nagar) to Rajnagar and back @ Rs. 30/- a trip making it total Rs. 60/- a day for 19 months @ Rs 29,640/- (Rupees twenty nine thousand six hundred and forty only).

(d) Amount for charges for Travelling Allowances for recall of leave approximately 25 times @ Rs. 1,000/- per trip by AC II class, making it total of Rs. 25,000/- (Rupees twenty five thousand only).

(e) Amount for the loss of job for 23 months @ Rs. 25000/- making a total of Rs. 4,75,000/- (Rupees four lakh seventy five thousand only).

(f) Amount of compensation to the applicant for unnecessary harassment to the tune of Rs. 500000/- only.

(g) Amount for damage of reputation @ Rs. 50,000,00/- (Rupees fifty lakh only) making total entitlement of the applicant to Rs. 6248140/- (Rupees Sixty Two Lakh, forty eight thousand one hundred and forty only) with appropriate interest on the entire amount.

(B) That the Honourable Court may be pleased to pass any other orders as deem fit and proper in the interest of justice and circumstances of the case.

(C) That allow the Original Application with cost.

2. Succinctly stated facts of the case are that the applicant was enrolled in the Army (Corps of Pioneers) on 22.12.1981. During the course of his service he was promoted to the rank of Subedar w.e.f. 01.04.2008. While serving with 40 Uttar Pradesh Battalion National Cadet Corps (UP Bn NCC) a Court of Inquiry (CoI) was held on 24.02.2010 and concluded on 12.11.2010 in which applicant was found involved in non maintenance of camp documents related to ration stock etc for which Director General National Cadet Corps (DG NCC) directed disciplinary action against the applicant. Since the applicant was due to retire from service w.e.f. 31.12.2011, Army Act Section 123 was invoked for initiating disciplinary action against him and he was attached to NCC Group Headquarters, Ghaziabad w.e.f. 01.01.2012 till completion of disciplinary proceedings. On 25.06.2013 he was attached to HQ Paschim Uttar Pradesh Sub Area for further initiation of disciplinary action. In summary trial he was tried under Section 83 to 85 of the Army Act, 1950 and awarded 'Severe Reprimand' on 31.10.2013. Applicant has filed this O.A. for grant of accommodation and messing charges for 19 months, travelling allowance on recall of leave, transportation charges for 19 months, loss of job for 23 months and amount of compensation for harassment during the period of his attachment.

3. Submission of learned counsel for the applicant is that after due date of retirement he was attached with National Cadet Corps, Group Headquarters, Ghaziabad vide letter dated 01.01.2012 for disciplinary proceedings therefore, he is entitled to accommodation allowance, messing allowance, transportation charges and travelling allowance for

the period of his attachment. It was further submitted that applicant was provided aforementioned facilities for four months only but thereafter, no facility was provided during his attachment and he had to afford the expenses related to accommodation, ration and transport etc on his own. His further submission is that in regard to this he submitted a representation dated 05.12.2020 which has still not been decided. He pleaded for grant of allowances mentioned in para 8 of the representation dated 05.12.2020.

4. On the other hand, learned counsel for the respondents submitted that applicant was due to be discharged from service w.e.f. 31.12.2011 but due to being involved in a disciplinary case para 123 of the Army Act, 1950 was invoked and he was attached to National Cadet Corps, Group Headquarters, Ghaziabad vide letter dated 01.01.2012 for completion of disciplinary proceedings. It was further submitted that during the trial applicant was attached with Vehicle Sub Depot, Meerut Cantt where he was provided free ration and accommodation as authorized and no extra amount was charged for his boarding and lodging except Rs 1,310/- which was charged on account of extra messing for six months i.e. June to November 2013. This extra messing was charged to all JCOs who dined in the Mess for purchase of essentials over and above the authorized scale of rations.

5. Learned counsel for the respondents further submitted that compensation sought by the applicant on account of loss of job, unnecessary harassment and damage to reputation are not acceptable as he was tried summarily for committing an act prejudicial to good order and military reputation. It was further submitted that there being no

record of him making payment to any agency on aforesaid counts, applicant's plea is not acceptable.

6. Learned counsel for the respondents further submitted that applicant had filed Dy No 980 of 2014 for the same relief but it was withdrawn vide order dated 05.11.2020 and statutory representation dated 05.12.2020 was preferred which seems to have not been decided as yet. The learned counsel pleaded for dismissal of O.A. on the ground that the applicant was provided free messing and accommodation during his trial which culminated on 31.10.2013 awarding severe reprimand to him.

7. Heard learned counsel for the parties and perused the records.

8. There is no dispute that applicant was due to retire from service w.e.f. 31.12.2011. It is also not disputed that after his date of discharge he, being involved in a disciplinary case, was attached to National Cadet Corps, Group Headquarters, Ghaziabad vide letter dated 01.01.2012 and further attached to Vehicle Sub Depot, Meerut for messing and accommodation. The respondents while filing counter affidavit have admitted that the applicant was attached to Vehicle Sub Depot, Meerut where he was provided free messing and lodging except charging of petty amount of Rs 1310/- towards purchase of essentials during the period June to November 2013.

9. After completion of trial he was found guilty and was awarded 'Severe Reprimand'. Thereafter, he was despatched vide movement order dated 28.11.2013. Applicant had previously filed Dy No. 980 of 2014 for grant of accommodation allowance, ration allowance, medical facilities allowance and transport allowance during the period of his

attachment but subsequently this case was withdrawn vide order dated 05.12.2020. Thereafter, statutory representation dated 05.12.2020 was preferred by the applicant which is pending.

10. In view of the above, without entering into merits of the case we dispose of this O.A. directing the respondents to decide applicant's statutory representation dated 05.12.2020 with speaking and reasoned order within a period of two months from the date of receipt of a certified copy of this order.

11. No order as to costs.

12. Miscellaneous application (s), pending if any, stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated : 24.08.2023

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(Justice Anil Kumar)
Member (J)