

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.2**  
**Reserved**

**ORIGINAL APPLICATION No. 475 of 2020**

Friday, this the 03<sup>rd</sup> day of February, 2023

**“Hon’ble Mr Justice Ravindra Nath Kakkar, Member (J)”**  
**“Hon’ble Maj Gen Sanjay Singh, Member (A)”**

Ex Risaldar Pramod Kumar Singh (JC-245083M) S/o Late Rameshwar Singh, Residence of House No: 544 D/058 Narayan Garden Hardoi Road, Dubagga Lucknow (UP) PIN - 226003  
 ..... **Applicant**

Ld. Counsel for the Applicant : **Col BP Singh (Retd), Advocate.**

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi - 110011
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi - 110011.
3. Director General Infantry (Personal), IHQ of MoD(Army), DHQ PO, New Delhi - 110011.
4. Officer-in-Charge Records, Armoured Records C/o 56 APO.
5. Commandant 20 Lancers C/O 56 APO.
6. Col Vikram Singh Rai, Commandant 20 Lancers C/O 56 APO.

.....**Respondents**

Ld. Counsel for the Respondents. : **Shri Chet Narayan Singh,**  
**Central Govt. Counsel**

## **ORDER**

**“Per Hon’ble Mr Justice Ravindra Nath Kakkar, Member (J)”**

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

- (a) *Issue / pass an order or direction of appropriate nature to the respondents to cancel / quash the discharge order dated 31.10.2016 (**Annexure No. A-1**) being per se illegal, arbitrary and capricious in nature.*
- (b) *Issue / pass an order or direction to the respondents to allow him to serve for 28 years till 30.06.2020 as per Para 163 of the Regulations for the Army, 1987.*
- (c) *Issue / pass an order or direction to the respondents to consider the applicant to the rank of Risaldar Major for which he possesses all qualitative requirements and age criteria.*
- (d) *Issue pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*
- (e) *Allow this application with costs.*

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Army on 27.06.1992. He was promoted to the rank of Risaldar on 16.01.2015 and discharged from service on 31.10.2016 after rendering 24 years and 04 months of service. He was downgraded to Low Medical Category S-2 for the disease “**Severe Depressive Episode**”. He submitted application for

premature discharge which was sanctioned and applicant was discharged from service on 31.10.2016. While on release drill, he submitted application for cancelling his release order which was denied. Being aggrieved applicant has filed instant Original Application for reinstatement him in service.

3. Learned counsel for the applicant submitted that applicant was enrolled in the army on 27.06.1992. In due course of time, he was promoted to the rank of Subedar (Sub). Applicant was downgraded to low medical category for the disease **“Severe Depressive Episode”**. Subsequently applicant underwent various medical boards from time to time and finally he was placed in Low Medical Category S-2 (Permanent). He submitted application for premature discharge from service dated 13.04.2016 which was sanctioned by Commandant on 20.04.2016. While on release drill, he further submitted applications dated 13.10.2016, 17.10.2016, 24.10.2016 and 26.10.2016 addressed to Commandant 20 Lancer, OIC Records, Army Headquarters, Min of Def (Army) and Defence Minister for withdrawal of premature discharge application dated 13.04.2016 with the request that he wants to serve because of liabilities of school going children and old age parents. In spite of submitting application for cancelling his discharge order, he was illegally discharged from service on 31.10.2016.

4. Learned counsel for the applicant further submitted that as per provisions of Para 163 of the Regulations for the Army, 1987, a Subedar is entitled to serve up to 28 years of colour service which is extendable by further two years under the policy issued by the Ministry of Defence, Govt of India dated 03 September 1998 read with Army Headquarters letter dated 22 September 1998. Thus, a Subedar can serve up to 30 years of colour service but in the instant case, in spite of giving application for cancelling premature discharge, service of the applicant was curtailed by 6 years and applicant was discharged from service. Learned counsel for the applicant submitted that since the applicant submitted various applications for cancelling his discharge order, respondents have wrongly discharged him from service. Learned counsel for the applicant prayed to direct the respondents to reinstate the applicant in service with all consequential benefits.

5. On the other hand, learned counsel for the respondents submitted that applicant was downgraded to low medical category S-2 wef 26.07.2006. He was provided sheltered appointment and was retained in service in public interest against alternative appointment from 26 July 2006 to 04 August 2016. Applicant submitted an application for premature discharge from service on his own request which was sanctioned by Commandant on 20.04.2016 and applicant was discharge from service with effect

from 31.10.2016 under the provisions of Rule 13 (3) I (i) of Army Rules 1954. Before release from service applicant was brought before Release medical Board on 01.08.2016. Applicant is getting 40% disability pension in addition to service pension. While on release drill, applicant filed application for cancelling his release order. Applicant was discharged from service on compassionate grounds, hence there is no provision for reinstatement into service. Further it was not feasible to cancel release order at this belated stage. Now the applicant has filed instant O.A. with the prayer to reinstate him in service. He prayed that instant Original Applicant lacks substance and is liable to be dismissed.

6. We have heard learned counsel for the parties and perused the documents available on record.

7. The question before us for consideration is “whether the applicant who applied for premature discharge and later on submitted application for cancelling discharge order can be reinstated in service”.

8. In the instant case, it is not disputed that the applicant was placed in low medical category at the time of discharge. He was provided sheltered appointment for about ten years. Argument of learned counsel for the applicant that the applicant was forced to apply for premature discharge seems to be misconceived. He

himself submitted application for premature discharge on compassionate grounds to look after his ailing parents and his wife having unhealthy physical condition. In his premature discharge application, applicant has stated that I am writing this application without any pressure and will not complain against recommended/sanctioning authority. His application for premature discharge was considered and his discharge was sanctioned. While on release drill, before 17 days of retirement, he submitted application for cancellation of his discharge order. It was not possible to cancel discharge order in short time.

9. On due consideration of the case, we find that denial of cancellation of discharge order of the applicant does not suffer from illegality. Original Application is bereft of any merit and prayer of the applicant to cancel his premature discharge is hereby rejected.

10. Resultantly, the O.A. is **dismissed**.

11. No order as to costs.

12. Pending applications, if any, stand disposed off.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

**(Justice Ravindra Nath Kakkar)**  
**Member (J)**

Dated: 03 February, 2023  
Ukt/-