

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 165 of 2016**Friday, this the 03<sup>rd</sup> day of September, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**Ajit Kumar Singh, Nk/Auto Elect (A Veh), Service No. 14649821-M  
S/O Shri Shambho Nath Singh, R/O Village-Gohada and post-  
Gohada Vishnupur, Police Station-Nagsar, District-Gazipur, U.P.

.....Applicant

Ld. Counsel for the: **Shri Yashpal Singh, Advocate**  
Applicant **Shri Sachindra P Singh, Advocate**

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Indian Army, Army Headquarters, New Delhi.
3. Director General, EME Army Headquarters, DHQ P.O. New Delhi-110011.
4. Officer-in-Charge Records, EME Records, Secunderabad-500018.
5. Commandant, Base Hospital, Delhi Cantt-110010.
6. Commandant, 291, Armed Workshop, 633 EME Bn Pin-906633, C/O 56 APO.
7. Col Mukund Sood, Commandant, 291, Armed Workshop, 633 EME Bn, Hissar Cantt, PIN-906633, C/O 56 APO.
8. Lt Col Rajneesh Mehta, Office-in-Charge, 291, Armed Workshop, 633 EME Bn, Hissar Cantt, PIN-906633, C/O 56 APO.
9. Ravindra Singh, Junior Adjutant, 291, Armed Workshop, 633 EME Bn, Hissar Cantt, PIN-906633, C/O 56 APO.

...Respondents

Ld. Counsel for the :**Dr. SN Pandey, Advocate**  
Respondents. Central Govt Counsel.

## ORDER

### Per Hon'ble Mr. Justice Umesh Chandra Srivastava

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:-

- (i) Issue an order quashing discharge of the applicant with effect from 28.03.2016 on medical ground allegedly on the recommendation of the Invaliding Medical Board after summoning the same in original from the respondents;
- (ii) Issue an order to quash the impugned recommendation dated 08.02.2016 of Lt Col SA Khan, Classified Specialist (Psychiatric);
- (iii) Issue an order to the respondents to reinstate the applicant with continuity of service with all consequential benefits.
- (iv) Any other order or directions, which this Hon'ble Court may deem fit and proper in the circumstances of the case may also be passed in favour of the applicant;
- (v) Award the cost of the Original Application.

2. Brief facts of the case are that the applicant was enrolled in Army on 09.03.2002 as a Craftsman (CFN). The applicant was invalided out from service on 28.03.2016 in low Medical Category S5H1A1P1E1 under Rule 13(3) III (iii) of the Army Rules, 1954 due to **'Alcohol Dependence Syndrome (Relapse) F-10.2'**. By way of this O.A. applicant has challenged recommendation of Classified Specialist (Psychiatric) dated 08.02.2016 and discharge order dated 28.03.2016 alleging that he was discharged from service under hatched conspiracy of unit which he was serving at the time of discharge.

3. Learned counsel for the applicant pleaded that on 24.11.2011 during course of service while the applicant was posted at 47 Armoured Regiment he was hospitalized for intoxication and in the medical report summary it was mentioned that he started consuming alcohol in the year 2007. His medical category was downgraded to S3 (T-24). His further submission is that applicant's review medical board was held in July 2014 and he was again placed in low medical category with advice for a therapy programme and anti-craving medicines for Alcohol Dependence Syndrome. His Review Medical Board was conducted in January, 2015 in which he had shown improvement but was kept in low medical category. Further submission of learned counsel for the applicant is that in October, 2015 applicant was tasked to decorate the building with lights for Dipawali festival which he dutifully did. The other limb of pleadings are that a conspiracy was hatched in the unit to oust applicant from Army by making false allegations in the back drop of his previous medical history i.e. Alcohol Dependence Syndrome, by sending him for frequent medical check ups, at the behest of unit, to Base Hospital, Delhi Cantt on 11.10.2015, 01.11.2015 and 10.11.2015. His contention is that earlier vide discharge slip dated 26.10.2015 (Annexure-A2) applicant was upgraded to medical category Shape-I and respondents after getting annoyed with applicant with regard to Dipawali lights work, sent him to hospital where Lt Col SA Khan under influence of respondent No. 7 to 9 recommended him to be invalided out of service in S5 medical category.

4. His other submission is that applicant had consumed liquor when he was not on duty and Army itself allows consumption of liquor

on issue days, therefore, mere consumption of liquor cannot be termed as misconduct and no punishment can be awarded on this ground. Learned counsel for the applicant has relied upon Black's Dictionary on the point of intoxication, Hon'ble Apex Court judgment in the case of Rayjappa vs Nilakanta Rao, AIR 1962 Mys 53, Hon'ble Orissa High Court in the case of Raghunath Behera vs Balaram Behera and Anr, AIR 1996 38, Hon'ble Apex Court judgment in the case of Earabhadrapa @ Krishnappa vs State of Karnatka, AIR 1983 SC 446.

5. Applicant's learned counsel has further contended that respondents have not followed the procedure prescribed in para 22 of the Health Care System in the Army-Instructions for medical examination and categorization of serving JCOs/ORs, thus depriving applicant to serve further in the Army and earn pension. His other contention is that on hearing news of arbitrary discharge of applicant, his wife and father tried to visit the unit to persuade officers but they were not allowed to enter in unit. His wife Smt Pooja Singh had submitted a letter to the Defence Minister in which she had highlighted about the conspiracy hatched by the respondents and prayed for saving of his services and also mentioned about the adverse impact on the family if her husband's services were terminated. She pleaded for quashing of recommendation dated 08.02.2016 issued by Lt Col SA Khan, Classified Specialist (Psychiatry) and discharge order dated 28.03.2016 and reinstate applicant with all consequential benefits.

6. On the other hand, learned counsel for the respondents narrated the following story:-

“No. 14649821M Nk/Auto Elect (A Veh) Ajit Kumar Singh was posted with 47 Armd Regt w.e.f. 19.09.2015. On 05.10.2015 the applicant was found to be sleeping in the duty room under influence of alcohol. On carrying out check of his personnel belongings he was found to be in possession of a bottle of rum with balance two pegs. On 09.10.2015 the applicant was again found under influence of alcohol but on asking he did not divulge its source. He was sent to Military Hospital, Hissar for medical examination from where he was sent to Base Hospital, Delhi Cantt and returned to unit on 26.10.2015. On 30.10.2015 when performing third duty at Barrier Gate of 633 EME Bn he was found sleeping under the influence of alcohol and was in possession of 1 1/2 bottles of rum. He was again sent to Military Hospital, Hissar alongwith AFMSF-10 from where he was transferred to Base Hospital, Delhi Cantt and applicant returned to unit on 17.11.2015. He was again found drunk and sent to Base Hospital, Delhi Cantt on 14.01.2016 where he was examined and treated and based on the opinion of Psychiatrist dated 08.02.2016 he was invalided out of service by conducting Invaliding Medical Board (IMB) dated 29.02.2016 which endorsed the reason for his discharge as- ‘Due to lack of self control over his drinking habit, hence not attributable nor aggravated by military service.’

7. Further submission of learned counsel for the respondents is that applicant was discharged from service being a case of Alcohol Dependence Syndrome as per recommendation of Invaliding Medical Board (IMB).

8. Heard learned counsel for the parties and perused material placed on record.

9. We have given our thoughtful consideration to the issues raised by the learned counsel for the applicant. On careful analysis, we find that Alcohol Dependence Syndrome is primarily a disease where an individual cannot control his excessive drinking habits. This disease

leads to being drunk while on duty and poor performance during discharge of official duties.

10. It is also well known that all efforts are made by military doctors and the organization to help a soldier who has become a victim of 'Alcohol Dependence Syndrome' and only when all efforts fail the soldier is invalided out on ground of 'Alcohol Dependence Syndrome'.

11. We take note that applicant being habitual drinker/refusal to disobey orders of superiors was punished five times during the period 2010 to 2015 as under:-

- (i) 30.09.2010 -07 days pay fine (black ink entry) under Army Act Section 48 (intoxication).
- (ii) 15.06.2011 -Severe Reprimand (red ink entry) under Army Act Section 63 (violation of good order and military discipline) for unlawfully possessing mobile phone belonging to another individual.
- (iii) 03.12.2012 -05 days pay fine (black ink entry) under Army Act Section 63 (violation of good order and military discipline) for not having done his ADS medical re-categorization.
- (iv) 14.08.2014 -Severe Reprimand (red ink entry) under Army Act Section 63 (violation of good order and military discipline) for misplacing technical manuals.
- (v) 24.11.2015 -Severe Reprimand (red ink entry) under Army Act Section 48 (intoxication) for intoxication while on duty.

12. From the above, we observe that during the years 2010-2015 applicant was punished for various offences like intoxication and disobeying orders of superiors which have been under the influence of

alcohol. The aforesaid punishments were awarded in different units in which he served and not in the unit from where he was invalided out of service due to hatching of a conspiracy by the unit concerned, as alleged by the applicant. He was punished in the year 2010 also for intoxication and received four punishments prior to joining the new unit. Thus, keeping in view that applicant was awarded four punishments prior to induction in new unit, there appears to be no reason to believe in the hatched conspiracy theory with regard to award of punishment in new unit as alleged by applicant.

13. It is an admitted fact that applicant's wife and father visited the unit in the last week of January, 2016 to meet the Commanding Officer. They were made aware of the fact that applicant was a chronic patient of Alcohol Dependence Syndrome (ADS) and was totally dependent on alcohol. They were also advised to use their influence on the individual to stop his excessive liquor consumption, otherwise the situation would go out of control and the individual could suffer major health problems due to excessive drinking.

14. Learned counsel for the applicant has brought out in para 4.8 of the O.A. that applicant was upgraded to medical category Shape-I on 07.09.2015 and he was wrongly assessed as a case of Alcohol Dependence Syndrome, due to a conspiracy theory, with a view to invalidate him out from the Army. On this point we have observed that applicant was punished for intoxication on 30.09.2010 itself (in his previous unit) which falsifies the contention made by learned counsel for the applicant that some unit personnel (in his final unit) had conspired to oust him from Army.

15. Further, the contention of learned counsel for the applicant is that applicant was falsely implicated in intoxication cases on account of some annoyance of senior persons of unit and that he was forcibly admitted in various hospitals by initiating AFMSF-10. On this point we take note that summary and opinion of Classified Specialist (Psychiatry), Base Hospital, Delhi Cantt is relevant which for convenience sake, is reproduced as under:-

*“Previous Med History. Circumstances of present psychiatric referral-admitted with old medical documents for opinion after he was admitted in MH Hisar with h/o alcohol intoxication on 10 Oct 2015 and transferred to BHDC for psychiatric evaluation of alcohol use.*

*Brief history. Perusal of available old medical documents revealed that this 31 years old serving soldier with about 13 yrs of service initially came to psychiatric attention when he was hospitalized on 24 Nov 2011 with history of alcohol intoxication. Detailed evaluation had revealed that the individual started consuming alcohol in 2007 due to peer pressure initially he was drinking in moderation which gradually increased in quantity and frequency. Soon he was drinking in dependent pattern with loss of control over drinking, craving for alcohol, frequent intoxication, daytime and binge drinking. At the time of referral, he was consuming 4-5 pegs almost daily despite being counseled by superiors/colleagues to stop/reduce drinking. Initial evaluation revealed him to be smelling of alcohol and later noted to have withdrawal symptoms. X x x x*

*During next review in Jun 2012 he continued to drink. Investigations revealed raised GGT and hepatomegaly with fatty changes on USG abdomen. He was counseled once again.*

*After review in Jun 2012 he did not report for review and recat due in Dec 2012 and then he was twice admitted in relapse in Feb 2014 and Apr 2014 at the behest of unit authorities and noted to have alcohol withdrawal features in the hospital.*

*He was next due for recat in Dec 2012 but did not report. He finally reported with delay condonation in July 2014, when he was found to be drinking intermittently, Unit report dt 25 June 2014 was uncomplimentary mentioning uncontrolled drinker with poor functioning and duty time drinking. X x x x*

*During next recat in Jan 2015 individual offered no complaints. AFMSF-10 dt 16 Jan 2015 reported him to be*

*drinking on issue days, partially improve behavior, partially abstinent, avg functioning. Physical examination revealed digital tremors and moist palms. MSE revealed lack of insight in to alcohol abuse with normal biodrives. Investigations revealed raised liver enzymes once again. He was treated for a relapse and was continued in S2 (T-24) with advise, in case of relapse to be admitted with AFMSF-16.*

*In Sep 2015, review, he shown some improvement, no features of abuse, relapse or withdrawal. Unit report dt 02 Sep 2015 mentioned casual soldier, drinker on issue days, partly abstinent, partially improved and avg function. He was upgraded to SHAPE-I on 07 Sep 2015.*

*In Sep 2015, he was posted to 633 EME Bn. He was admitted on unit behest at MH Hisar in Oct 2015 and was transferred to BHDC for evaluation of alcohol use on 10 Oct 2015. AFMSF-10 dt 09 Oct 2015 was very uncomplimentary mentioning continued alcohol use and alcohol related indiscipline and poor functioning. Evaluation revealed simple alcohol withdrawal features. X x x x x*

*He was discharged with advise to readmit with old medical documents for further disposal. He was discharged to unit on 26 Oct 2015 and admitted to BHDC for intoxication, on 01 Nov 2015. He was managed and discharged to unit on 06 Nov 2015. Since old documents as advised in the discharge slip was not present and disposal could not be given, hence he was again discharged to unit with advice to be admitted alongwith all old medical documents.*

*Again admitted at the unit behest on 10 Nov 2015 with AFMSF-10 dt 08 Nov 2015 which was uncomplimentary-'found in intoxicated state on 26 Oct, 31 Oct and 08 Nov 2015'. He denied any alcohol consumption. Examination did not reveal frank alcohol withdrawal features but insight was poor into alcohol consumption and related behavior. MSE revealed euthymic individual with no features of depression or any other psychopathology. He was counseled once again and discharged with advise to readmit with old documents AFMSF-16 for invalidment. He was discharged on 17 Nov 2015.*

*Next, he reported on 16 Jan 2016 at unit behest, for continuing to abuse alcohol. The accompanying unit report dt 14 Jan 2016 mentioned frequent drinker with indiscipline, poor functioning, retention not recommended. Verbal conversation with the CO revealed that perhaps the instructions in the discharge slip for old documents/form 16 went undetected at the clerk level. The unit report also mentions that he was found drunk in the unit line on 14 Jan 2016 inspite of repeated warnings. The indl has been entrusted with various key appt in the unit administration of this wksp. The indl has carried ouot similar activity against repeated advice and warning. His mental state seems to be unbalanced and it is requested that*

*the individual be evaluated by a psychiatrist for such abnormal behavior.*

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*Opinion. This 32 yrs EME/Auto Elect (A Vehicle) with about 14 yrs of service is a case of alcohol dependence syndrome. He has been observed in LMC for alcohol dependence syndrome from 2012 onwards under sheltered employment. He continued to drink and had multiple relapses. He was upgraded to S1 for alcohol dependence syndrome after 2 years observation in Sep 2015. In Oct 2015 he again had a relapse. Since he was admitted many times with h/o continued alcohol and related dysfunction in the unit. Despite intensive psychotherapeutic intervention on multiple occasions and anticraving drugs for adequate period of time he fails to upkeep insight into his illness, persists with strong alcoholic defenses and has had repeated relapses. Therefore, in view of the above and in accordance with instructions incorporated in para 9(a) sub para (iii) of DGAFMS med memorandum 171/2002, and AO 3/2001, he is recommended to be invalided out of service LMC S5 for alcohol dependence syndrome (ICD 10.F-10.2) subject to approval by higher authorities.”*

16. With regard to submission made by applicant in para 4.24 and 4.25 of O.A. that procedure, as prescribed in para 22 of Instructions for Medical Examination and Categorization of serving JCOs/OR, has not been followed, it emerges that the aforesaid summary and opinion endorsed by the Psychiatrist clearly indicates that he was kept under observation several times while admitted in the hospital for treatment.

17. The applicant had also earned five (red and black ink) entries and, therefore, can be categorized as a habitual offender. Applicant's contention that consuming alcohol in Army is not an offence as it is supplied in the organization, does not help to applicant as on this account respondents' submission that consumption of alcohol while on duty is strictly prohibited, seems to be logical. In the instant case, the fact that the applicant was about to complete his pensionable service, was an important factor for consideration.

18. This Tribunal's order, passed in O.A. No. 231 of 2014, **Basant Kumar Singh vs Union of India & Ors**, relied upon by learned counsel for the applicant is of no help to applicant as the facts of that case are different to the case in hand.

19. One of the important aspect as brought out by learned counsel for the applicant is that applicant's in laws were not treated in the way they should have been. We have noticed that they had visited the office of Officer Commanding, Workshop on 22.01.2016 and they were briefed on all aspects. On 30.01.2016, the Commanding Officer in presence of Officer Commanding, Wksp also briefed them and told them the complete situation. Therefore, saying that the in-laws were not treated properly, seems to be illogical.

20. It is pertinent to mention that applicant being habitual drinker was brought to Military Hospital every time alongwith escort of one JCO and three ORs and therefore, the applicant after invalidating out from service was despatched alongwith aforesaid military escort and handed over to his father in presence of Police Officer, Nagsar, on 29.03.2016 (page 54 of O.A.).

21. Thus, considering that due process has been followed by Army in invaliding the applicant out of service, we decline to interfere with this process or provide any other relief to the applicant. The applicant has been rightly invalided out of service being Alcohol Dependence Syndrome.

22. In view of the above, the Original Application No 165 of 2016 deserves to be dismissed, hence **dismissed**.

23. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: 03.09.2021  
rathore