

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 592 of 2020****Thursday, this the 23<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)**

No. 3004063H Ex Sep Nirajan Singh, S/O Sri Puran Singh, R/O Vill-  
Rajgarh, PO-Suhan, Distt-Bharatpur (Raj).

.... Applicant

Ld. Counsel for the: **Shri KK Misra**, Advocate.  
Applicant

Versus

1. Union of India through its Secretary, Min of Defence, New Delhi.
2. The Chief of Army Staff, South Block, New Delhi.
3. Officer-in-Charge, Rajput Regiment Records, Fatehgarh.
4. Regional Centre ECHS, 3-Rani Laxmibai Marg, Lucknow-226002.
5. Commanding Officer, 3 Rajput Regiment, C/O 56 APO.

... Respondents

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

**ORDER (Oral)**

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 applicants have sought following reliefs:-

*(a) To quash the order of discharge and direct the respondents to reinstate the applicant in service w.e.f. the date of discharge from the service i.e. 15 May 2014, with all consequential benefits of service (Annexure A-3 to O.A.).*

*(b) Any other relief which Hon'ble Court may think just and proper may be granted in favour of the applicant.*

*(c) Cost of the case may be allowed.*

2. Brief facts of the case are that applicant was enrolled in the Army on 28.02.2002 and was discharged from service w.e.f. 15.05.2014 (AN) under Rule 13 (3) III (v) of Army Rules, 1954. While in service, applicant was admitted in Military Hospital, Bareilly on 23.07.2013 for diagnosis 'Alcohol Dependence Syndrome' and after due examination he was downgraded to low medical category S3(Temp)H1A1P1E1 w.e.f. 21.08.2013. His next re-categorization medical board was due on 21.07.2014 but he was discharged from service prior to holding the next medical board being undesirable soldier on account of his misconduct and punishments (five red ink entries) awarded to him. Applicant has filed this O.A. to quash his discharge order and re-instate him into service.

3. Learned counsel for the applicant submitted that applicant in the year 2013 was placed in low medical category S3 (temp). On 27.02.2014 he was admitted to Military Hospital, Bareilly for medical re-categorization where he remained till 08.05.2014. His submission is that

applicant's next medical board was due on 21.07.2014 but he was discharged from service w.e.f. 15.05.2014 arbitrarily as an undesirable soldier. Further submission of learned counsel for the applicant is that in accordance with policy letter dated 28.12.1988, no preliminary inquiry was held prior to issue of Show Cause Notice which is against the verdict of the Hon'ble Supreme Court passed in Civil Appeal No. 32135 of 2015 decided on 16.10.2015, titled ***Veerendra Kumar Dubey vs Chief Of Army Staff & Ors.*** He pleaded for setting aside of discharge order and his reinstatement into service with all consequential benefits.

4. On the other hand, learned counsel for the respondents submitted that applicant is a case of 'Alcohol Dependence Syndrome' and he was admitted in Military Hospital at a number of times on this account. The learned counsel has further submitted that applicant was punished five times for his misconduct primarily done in the influence of alcohol and in one of the incidents on 02.07.2008, he was found at around 0100 hours at family accommodation area which was out of bound for all ranks other than residents and persons on specified duties. He concluded that applicant was discharged from service being undesirable soldier by following due procedure i.e. preliminary inquiry followed by Show Cause Notice. He pleaded for dismissal of O.A. on the grounds aforesaid.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. 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.

7. 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 discharged/invalided out on ground of undesirable soldier/Alcohol Dependence Syndrome.

8. We take note that applicant being habitual drinker was punished five times by awarding red ink entries, three of them on account of 'Intoxication', during the period 2008 to 2013 as under:-

Ser No	Date and place of Award	Army Act/Section/Nature of Offence	Punishment Awarded	Nature of Entry (Red/Black)
(a)	07.07.2008 (Peace)	AA Section 63	28 days Rigorous Imprisonment	Red Ink
(b)	16.09.2011 (Field)	AA Section 48 (Intoxication)	14 days Rigorous Imprisonment	Red Ink
(c)	18.01.2013 (Peace)	AA Section 48 (Intoxication)	07 days Rigorous Imprisonment	Red Ink
(d)	10.07.2013 (Peace)	AA Section 48 (Intoxication)	07 days Rigorous Imprisonment	Red Ink
(e)	22.11.2013 (Peace)	AA Section 39(a) (Absent without leave)	14 days Rigorous Imprisonment	Red Ink

9. From the above, an inference may be drawn that during the years 2008-2013 applicant was punished for various offences like intoxication and absent without leave mainly on account of excess consumption of alcohol. The aforesaid punishments were awarded by different Commanding Officers where applicant served from 2008 to 2013.

10. Vide para 4.9 of O.A. an averment has been made by learned counsel for the applicant that procedure as mandated in policy letter dated 28.12.1988 has not been followed prior to discharge of applicant. In this regard, we find that prior to issue of Show Cause Notice dated 28.01.2014, a Court of Inquiry was conducted on 11.01.2014 and after receipt of reply dated 15.02.2014 from applicant, which was not found satisfactory, he was discharged from service.

11. Thus, considering that due process has been followed by Army in discharging the applicant as undesirable soldier, we decline to interfere with this process or provide any other relief to the applicant. The applicant has been rightly discharged from service as an undesirable soldier being 'Alcohol Dependence Syndrome' as endorsed in the RMB dated 07.05.2014 which was conducted prior to discharge.

12. In view of the above, the Original Application No 592 of 2020 deserves to be dismissed, hence **dismissed**.

13. No order as to costs.

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

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

Dated : September 23, 2021  
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