

COURT No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 763 of 2020**

Monday, this the 28th day of March, 2022

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

Raj Karan, No.10181774M, Ex LC NK S/o Late Kamla Prasad,
R/o:Village & Po: Leelapur Kalan, Tehsil: Phulpur:
District:Allahabad (U.P)

..... Applicant

Learned counsel for the : **Shri Vijay Kumar Pandey**, Advocate.
Applicant

Versus

1. Union of India through, Secretary, Ministry of Defence,
South Block, R.K. Puram, New Delhi.
2. OIC Records, Records DSC Centre, Cannanore (Kerala)-
670013.

.....Respondents

Learned counsel for the :**Shri Jai Narayan Mishra**, Advocate
Respondents. Central Govt. Counsel

ORDER (Oral)

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

- (i) *That this Hon'ble Tribunal may kindly be please to direct the opposites party No 2 to re-enrol the applicant in DSC Service w.e.f. 24.01.2006, with all consequential benefits, i.e. promotion, salary, DA/TA & CA etc. and provide the interest on the aforesaid delayed amount of service benefits with 18% p.a. since due date to actual date of payment.*
- (ii) *The this Hon'ble Tribunal may kindly be pleases to award the cost Rs. 20,000,00/(Rupees Twenty Lac) for mental and physical harassment and agony and Rs. 20,000/- (Twenty thousand) for financial loss as expenses in filling the instant original application with the interest @18% p.a. in the interest of justice.*
- (iii) *That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant.*

2. Brief facts of the case giving rise to this application are that the applicant after having served in the Army for a period of 06 years, 01 month and 09 days was re-enrolled in Defence Security Corps (DSC) on 28.06.1993 and opted to count his former service towards DSC service. Since the applicant submitted unwillingness certificate dated 04.12.2001 (Annexure R-1), he was discharged from service w.e.f. 30.06.2003 (AN) under the provisions of Rule 13 (3) III (i) of Army Rules, 1954 after rendering 16 years, 01 month and 12 days service. He was granted service pension vide PPO No. S/010054/2003. After discharge from service, he again applied for re-enrolment in DSC. Accordingly, a call letter to this effect was served vide letter dated 21.12.2005 (Annexure No-2) directing him to report to DSC Centre on 24.01.2006 which he failed to report. Applicant's

contention is that he received letter dated 21.12.2005 on 23.01.2018 after a lapse of 13 years as he apprehends that the said letter was despatched to him only on 18.01.2018. In regard to his re-enrolment in DSC applicant is stated to have written a letter dated 02.02.2018 (Annexure-3) which seems to have not been replied as yet. This O.A. has been filed by the applicant to issue directions to the respondents to allow him to join DSC service w.e.f. 24.01.2006 with all consequential benefits and also pay compensation of Rs 20 lacs for mental pain and agony and Rs 20,000/- for financial loss in filing this O.A.

3. Submission of learned counsel for the applicant is that applicant had received letter dated 21.12.2005 on 23.01.2018 i.e. after elapse of 13 years and that was the reason he could not join DSC service. His other submission is that on receipt of letter dated 21.12.2005 he reported DSC Centre on 28.01.2018 but he was not permitted to join the service stating that at this belated stage there is no force in letter dated 21.12.2005. Thereafter, he submitted a representation dated 02.02.2018 (Annexure No-3) but no heed was given to his representation. He submitted that the respondents have wilfully not communicated the joining letter in time resulting in huge loss to the applicant. He pleaded for issuing directions to allow the applicant to join DSC service w.e.f. 24.01.2006 with all consequential benefits.

4. On the other hand, learned counsel for the respondents submitted that after discharge from service, the applicant again applied for re-enrolment into DSC. Accordingly, his pre

verification was carried out and a call letter dated 21.12.2005 was issued to him with directions to report to DSC Centre on 24.01.2006. However, he did not report to DSC Centre as per instructions mentioned in the call letter. Learned counsel for the respondents further submitted that during first spell of applicant's DSC service, he himself was unwilling to extend his service beyond the initial terms of engagement, otherwise he could have served in DSC upto the age of 55 years, whereas he was retired from service at the age of 40 years after earning service pension for life. He pleaded that since the applicant was required to report to DSC Centre by 24.01.2006 which he failed to do, there is no fault on the part of the respondents and his statement that he received letter dated 21.12.2005 on 23.01.2018 after lapse of 13 years is not acceptable. He pleaded for dismissal of O.A. stating that since he did not report to DSC Centre in the given time, he is not eligible for any relief.

5. We have heard Shri Vijay Kumar Pandey, learned counsel for the applicant and Shri Jai Narayan Mishra, learned counsel for the respondents and perused the material placed on record.

6. No 10181774M Ex L/Nk Raj Karan was enrolled in DSC on 28.06.1993 and he was discharged from service on 30.06.2003. He was granted service pension vide PPO No S/010054/2003. After discharge he again applied for re-enrolment in DSC. Accordingly, call letter dated 21.12.2005 was issued to him to join DSC Centre on 24.01.2006, however he did not report to DSC Centre as per instructions contained in the call letter. The

applicant has alleged that he received call letter dated 21.12.2005 on 23.01.2018 after lapse of 13 years which seems to be not true.

7. We observe that in case the call up letter dated 21.12.2005 was actually not received by him in time, he was having enough opportunity to approach DSC Records/Centre because being an ex-serviceman of DSC he was very much familiar with all formalities and actions involved in the enrolment process. The applicant has not taken any action to rejoin the DSC service and filed this O.A. after waiting for 13 years when the issue involved in this case became infructuous. We also take note of Annexure No 1 containing information with regard to despatch of call letter dated 21.12.2005 at applicant's home address and we find that the post office stamp clearly indicates that the aforesaid letter was received at Allahabad post office on 06.01.2006 and it cannot be believed that from Allahabad post office it would have taken 13 years to reach at his home address. Therefore, it is unbelievable and seems to be a concocted story that he received letter dated 21.12.2005 after 13 years from the date of despatch.

8. Further while serving with 20 Wing Air Force the applicant had given unwillingness certificate dated 04.12.2001 (Annexure R-1) to the effect that he was not willing for extension of service beyond his present terms of engagement. This unwillingness certificate clearly establishes that the applicant had no desire to serve in DSC beyond present tenure. He retired at the age of 40

years but services in the DSC are up to the age of 55 years. In this regard we notice that had he an intention to serve further in DSC he would not have rendered unwillingness certificate.

9. In view of the above, applicant has not been able to make out a case which deserves to be dismissed, hence **dismissed**.

10. No order as to costs.

11. Miscellaneous application(s), pending if any, stand disposed of.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 28.03.2022

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