

Court No.3

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

TRANSFERRED APPLICATION NO 113 of 2011

Thursday, this the 10th day of December 2015

Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)

Santosh Kumar Yadav son of Sri Ram Yagya Singh Yadav,
resident of Village-Mahmoodpur, Post Office-Nonhara, District-
Ghazipur.

.....Petitioner

Ld. Counsel for the: **Shri B.N. Pandey, Advocate**
Petitioner

Versus

1. Union of India through Chief Secretary, Ministry of Defence, Government of India, New Delhi.
2. Lt. Colonel, Chief Record Officer, Signal Abhilekh Karyalaya, Signals Records, Post Bag No.-5, Jabalpur (M.P.) 482001.
3. The Commanding Officer, 4 TTR I STC, Jabalpur, M.P.

...Respondents

Ld. Counsel for the : **Shri B.P.S. Chauhan, Advocate**
Respondents. **assisted by Capt Priti Tyagi, OIC Legal Cell.**

ORDER (ORAL)

1. Heard Ld. Counsel for the parties and perused the records.
2. The petitioner, a soldier of the Indian Army has preferred Civil Misc Writ Petition No 39733 of 2005. After constitution of Armed Forces Tribunal the petition has been transferred to this Tribunal in pursuance of powers conferred under Section 34 of the Armed Forces Tribunal Act, 2007 and registered as T.A. No 113 of 2011.
3. Brief facts giving rise to the present T.A. is that the applicant was recruited as a soldier in the Indian Army. During verification it was found that the petitioner was subjected to a criminal case and was detained in jail for three months, but while filling up the recruitment form the petitioner had not disclosed about his involvement in the criminal case.
4. Ld. Counsel for the petitioner submitted that after trial the petitioner has been acquitted honourably by the competent criminal court. Vide judgment and order dated 12.11.2007 it is submitted that whatever mistake was committed, was inadvertent and a sympathetic view deserves to be taken.
5. On the other hand Ld. counsel for the respondents submitted that against the impugned order of discharge, the petitioner has not preferred Statutory Complaint.

6. After hearing Ld. Counsel for the parties at length, we are of the view that the petitioner may be permitted to submit a fresh Statutory Complaint.

7. Accordingly we permit the petitioner to prefer Statutory Complaint within a period of one month from today and in case such Statutory Complaint is submitted by the petitioner, it shall be decided by the competent authority in accordance with law expeditiously, say, within a period of four months from the date Statutory Complaint is filed and communicate the decision to the petitioner.

8. While parting with the case we take note of the fact that the petitioner when he was discharged from army was aged about 20 years. It appears that the petitioner was falsely involved in the criminal case by his neighbours and was acquitted by the criminal court after full fledged trial. The Chief of the Army Staff may look into the matter and if possible take a sympathetic view for restoration of the petitioner in service while deciding the Statutory Complaint.

9. It may be clarified that we have not entered into the merits of the case.

10. Subject to above observations, the T.A. is disposed of.

No orders as to costs.

(Air Marshal Anil Chopra)
Member (A)

anb

(Justice D.P. Singh)
Member (J)