

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****TRANSFERRED APPLICATION NO 5 of 2014**

Friday, this the 20th day of November 2015

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

Nand Kishore, son of Shri Balabant, Resident of Village:
Ratanpur, Post Chandarpur, District: Farrukhabad.

.....Petitioner

Ld. Counsel for the: **Shri Manish Mani Sharma, Advocate**
Petitioner

Versus

1. Union of India, through the Chief of Army Staff, New Delhi.
2. Commandant 114 Infantry Battalion, (Territorial Army),
Farrukhabad at Fatehgarh.

...Respondents

Ld. Counsel for the : **Shri Prakhar Kankan, Central**
Respondents. **Govt Counsel assisted by**
Lt Col Subodh Verma,
OIC, Legal Cell.

ORDER (ORAL)

1. The petitioner preferred Civil Writ Petition No. 21864 (SS) of 1999 in the High Court of Judicature at Allahabad being aggrieved by impugned discharge order dated 21.10.1994, which has been received by this Tribunal by way of transfer under section 34 of the Armed Forces Tribunal Act 2007 and renumbered as T.A. No. 5 of 2014.

2. The petitioner was enrolled in the Indian Army on 30.12.1993 as recruit. He has been discharged from the Army on 21.10.1994 on the ground that while filling up enrollment form during course of recruitment, he has not disclosed pendency of a criminal offence. It has not been disputed that the petitioner was enrolled in the Army on 30.12.1993. Ld. Counsel for the petitioner also does not dispute that while filling up enrollment form during course of recruitment, the petitioner inadvertently has not indicated in the required column of the recruitment form with regard to pendency of a cases under Section 326 of the Indian Penal Code and Sections 323, 325 and 504 of the Indian Penal Code. It is further stated by Ld. Counsel for the petitioner that offence under Section 326 of the Indian Penal Code is not a serious offence and the petitioner was framed in the criminal case on the ground that he had cut the nose of his own Bhabhi. Ld. Counsel submitted that the petitioner was acquitted in the criminal case.

3. However, the fact remains that the petitioner has not disclosed in the recruitment form with regard to pendency of a criminal case against him.

4. The recruitment form itself contained provision that in case any of the information disclosed is found incorrect, services of such person shall be dispensed with on this ground alone. Since it is not disputed that the petitioner has not disclosed in the recruitment form in the appropriate column with regard to pendency of criminal case against him (supra), the impugned order does not suffer from any impropriety or illegality. Concealment of material fact like pendency of criminal case under Section 326 of the Indian Penal Code, which is serious offence, is sufficient enough to dispense with petitioner's services. The impugned order of discharge does not suffer from any illegality.

5. The T.A. has no force and is rejected accordingly.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

anb

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