

**RESERVED****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****ORIGINAL APPLICATION No. 250 of 2017**Thursday, this the 2<sup>nd</sup> day of December, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**Dr. Parul Jain D/o Air Commodore Naveen Jain (Retd), VSM  
R/o A106, Arunima Palace, Sector-4, Vasundhara, Ghaziabad -  
201012, presently at New Delhi.**..... Applicant**Ld. Counsel for the : **Shri SS Pandey**, Advocate.  
Applicant **Shri SS Rajawat**, Advocate.

Versus

1. Union of India through the Secretary, Ministry of Defence, South Block, DHQ, PO- New Delhi -110011.
2. Chief of the Army Staff, Through Adjutant General's Branch, Integrated Headquarters of Ministry of Defence (Army) DHQ, Post Office, New Delhi-110011.
3. The Director General Armed Forces Medical Services Ministry of Defence L and M Block Hutments North Avenue, New Delhi-110011.
4. The Director General Medical Service (Army) L Block New Delhi-110001.
5. Commandant, Base Hospital, Delhi Cantt.

**.....Respondents**Ld. Counsel for the **Shri Sunil Sharma**, Advocate  
Respondents. Central Govt. Standing 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:-

*(a) Call for the relevant records including the record based on which the Respondents took decision on 04.07.2017 or thereafter (not conveyed to the Applicant) to withhold/cancel the letter dated 04.07.2017 which was required to be sent to immigration authorities for cancellation of look out circular dated 17.06.2015 and thereafter, quash the same along with the order revoking the acceptance of resignation order dated 02.09.2008 (which was never intimated to the Applicant and copy of such revocation not served to her).*

*(b) Issue further direction to the Respondents to withdraw/cancel all orders issued after 02.09.2008 by treating the Applicant subject to Army Act including order dated 17.06.2015 vide which the lookout circular was issued against the Applicant and relieve the Applicant from all consequences of such illegal orders including the orders of revocation of order of resignation dated 02.09.2008, if any, decision of intimation of disciplinary action and issuance of look out notice.*

*(c) Direct the Respondents to pay exemplary compensations to the Applicant for such undue harassment, illegal detention and spoiling the best moment of her married life without any fault of hers.*

*(d) Pass any other order/orders as deemed appropriate by this Hon'ble Tribunal in the facts and circumstances of the present case.*

2. Brief facts of the case are that applicant was granted short service commission provisionally for five years in the Army Medical Corps (AMC) vide letter dated 26.03.2008. She was posted to Base Hospital, Delhi Cantt w.e.f. 25.04.2008 and within a short time she applied for resignation of commission due to personal reasons vide application dated 10.05.2008 (Annexure A-7). Letter dated 05.05.2008 was issued nominating her to undergo MOBC course commencing from 13.05.2008 and on that reason she applied for resignation of

commission vide aforesaid application. On 12.05.2008 she wrote a letter for cancellation of Part-II Order with respect to commissioning in AMC. Later she was directed to submit application for resignation of commission in the prescribed format which she did on 12.06.2008. Earlier w.e.f. 14.05.2008 she was granted 11 days casual leave which was converted into 60 days annual leave w.e.f. 13.07.2008 on the request made by applicant. When she did not join duty on due date, an apprehension roll was issued on 26.07.2008. Applicant on 18.08.2008 and 29.09.2008 submitted request to DGAFMS and Base Hospital Delhi Cantt for cancellation of apprehension roll intimating that she was not a deserter which was not conceded keeping in view that she was clearly made aware that she should rejoin duty on 13.07.2008. Her resignation was accepted vide letter dated 02.09.2008 and the same was conveyed to her. Applicant got married on 01.07.2017 and while proceeding to Zurich for honeymoon trip she was stopped at Airport by immigration department on the pretext of look out notice (apprehension roll) sent by Base Hospital, Delhi Cantt in the year 2008, which according to applicant gave her mental pain and agony. This O.A. has been filed to quash all orders against applicant issued after 02.09.2008.

3. Learned counsel for the applicant submitted that after joining service applicant had submitted an application dated 10.05.2008 to Commandant, Base Hospital, Delhi Cantt to

leave Army service and thereafter, many representations were submitted in this regard but instead of considering her application, an apprehension roll declaring her deserter from Army was issued on 20.07.2008 to various agencies. Her further submission is that vide order dated 02.09.2008 applicant's resignation was accepted and on account of acceptance of resignation all proceedings against applicant should have been stopped. Further contention of learned counsel for the applicant is that applicant was commissioned provisionally. Thus, keeping in view of her provisional assignment, she should have been allowed to leave the organization on the ground that she did not claim any money towards her salary for services rendered in Base Hospital, Delhi Cantt for 10 days. Other submission of learned counsel for the applicant is that applicant was in touch with hospital authorities and had conveyed that she left AMC as the assurance given by DGAFMS authorities during briefing at the time of selection was not fulfilled by Base Hospital, Delhi Cantt and DGAFMS authorities, and her plans of marriage and staying with parents after six years of long separation since school days, were shattered. Her detention at the Delhi Airport in 2017 caused irreparable damage to her and her parents' reputation, in eyes of her husband and her in-laws. The learned counsel pleaded for revocation of all actions against applicant issued after

submission of her resignation from Army service and acceptance by the authorities concerned.

4. On the other hand, submission of learned counsel for the respondents is that applicant was initially granted 11 days leave which was extended to 60 days leave and applicant ought to have rejoined from leave on 13.07.2008 which she failed to do. Thereafter, apprehension roll was issued vide order dated 26.07.2008 and same being in force, her resignation was accepted vide order dated 02.09.2008. Learned counsel for the respondents further submitted that applicant, even after being duly informed by the unit on multiple occasions i.e. first while proceeding on leave, and then on expiry of leave to report back to the unit, the applicant intentionally did not report. Consequently, her documentation with regard to final acceptance of resignation could not be completed and the letter dated 02.09.2008 conveying provisional acceptance of her resignation became infructuous and void. He contended that applicant was informed many times that in her absence resignation process could not be completed. The learned counsel concluded submitting that in pursuance to apprehension roll dated 26.07.2008 she was detained on 03.07.2008 but later on released from custody.

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

6. Applicant Parul Jain was provisionally commissioned in the Army Medical Corps as a Short Service Commissioned (SSC) Officer for a period of 05 years in the first instance and was posted to Base Hospital, Delhi Cantt wherefrom after serving ten days she submitted an application for resignation on the ground that she was detailed for MOBC course at Lucknow commencing from 13.05.2008 to 14.07.2008. As per applicant she was assured by the DGAFMS during selection interview that she will be allowed to live with her parents for some time in Delhi. After receipt of her detailment for MOBC course, she submitted an application for her resignation on 10.05.2008 and thereafter, she was granted 60 days annual leave which was due to expire on 13.07.2008 and even after expiry of leave when she did not turn up, an apprehension roll was issued on 26.07.2008 informing all concerned.

7. Later, vide order dated 02.09.2008 her resignation was approved but presumably the apprehension roll was left uncanceled due to oversight on the part of the respondents which resulted in her detention on 04.07.2017 at Airport when she was to leave for Zurich with her husband, but later on she was released from custody. On scrutiny it was revealed that vide order dated 20.07.2017 applicant was allowed to leave India subject to her filing of an undertaking that she will return within a period of two months.

8. It is seen from the letter of MoD O/o DGAFMS dated 26.03.2008 'Grant of SSC in the AMC-Batch Dec 2007', that the applicant was informed that "*This commission will be provisional in the first year subject to receipt of positive verification from the civil authorities that you are fit for commission in the AMC and a notification is issued in the Gazette of India*". In other words the applicant was "provisionally" commissioned and the same could have been reversed, if required. The applicant having tendered her resignation/unwillingness to continue her commission was therefore within the four bounds of the rules framework.

9. Further, although the apprehension roll was issued on 26.07.2008 and she visited and met the Commandant, Base Hospital, Delhi Cantt along with her father on 22.09.2008, nearly two months after issue of the apprehension roll, no steps were taken by the Hospital authorities to apprehend the applicant, which indicates that they had no intention of apprehending the applicant, presumably as her resignation had already been accepted on 02.09.2008.

10. Prima facie it appears to be a case of non application of mind by the respondents while dealing with the present matter as after acceptance of her resignation in the month of September, 2008, respondents ought to have cancelled their apprehension roll which caused great distress and hardship to

applicant throughout and particularly while proceeding abroad on honeymoon in the year 2017.

11. Be that it may, it is crystal clear that respondents had accepted her resignation in September, 2008 after following due process and thereafter, no proceedings were required to be held in applicant's case, being not subject to Army Act.

12. In view of the above, respondents are directed to cancel all proceedings against the applicant carried out after 02.09.2008. Impugned orders with respect to applicant are hereby quashed.

13. Accordingly, O.A. is **allowed**.

14. No order as to costs.

15. Miscellaneous applications pending, if any, stand disposed off.

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

Dated: 02 December, 2021  
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