

Court No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 610 of 2020**Wednesday, this the 23rd day of March, 2022**"Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)"**Ex Nb Sub No JC-480996W Ravinder Kumar Singh son of
Shri Chandra Hari Singh, resident of Sita Vihar Colony,
Jankipuram Vistar, Lucknow

..... Applicant

Ld. Counsel for the : **Shri Bhanu Pratap Singh Chauhan**, Advocate.
Applicant holding brief for Shri Virat Anand Singh

Versus

1. Union of India and others through the Secretary,
Ministry of Defence, South Block, New Delhi-110011.
2. The Chief of the Army Staff, Integrated HQ of MoD,
New Delhi.
3. OIC Records, Records the Rajput Regimental Centre.
4. The Commanding Officer, 09 Rajput, C/o 56 APO.

.....Respondents

Ld. Counsel for the : **Shri Ashish Kumar Singh**,
Respondents. Central Govt. Counsel

ORDER (Oral)

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

- "(i) To quash the discharge order dated 30 Sep 2014 and the decision by respondents authority dated 03 Mar 2017.*
- (ii) To direct the respondents to reinstate the applicant back to service with all seniority with consequential benefits including seniority retrospectively from the date of discharge i.e. 30 Sep 2014.*
- (iii) To direct respondents to create special vacancy to accommodate applicant promotion, if entitled, with retrospective effect.*
- (iv) To pass any other order as the lordship may deem fit and proper in the above stated circumstances of the case.*
- (v) Allow this application with cost of 50,000/- only.*

2. Brief facts of the case are that the applicant was enrolled in the Army on 09.09.1988. During the course of his service he was promoted to the rank of Naib Subedar. He was discharged from service on 30.09.2014 on completion of his terms of engagement in the rank of Naib Subedar. Applicant's grievance is that he was denied service extension of two years. On 19.02.2015 he preferred a statutory appeal which when not decided he filed O.A. No 34 of 2017 in this Tribunal. This O.A. was disposed of vide order dated 01.02.2017 with directions to the respondents to decide applicant's representation within a period of four months. Accordingly, the reasoned order was passed on

03.03.2017 and it was received by the applicant on 08.03.2017. This O.A. has been filed to set aside his discharge order dated 30.09.2014 and speaking and reasoned order dated 03.03.2017 and to reinstate the applicant into service with all consequential benefits.

3. Submission of learned counsel for the applicant is that the applicant has served the organization to the entire satisfaction of the authorities which resulted in initiation of all his above average Confidential Reports (CRs) during the last five years and even then he was not considered for extension of tenure. His other submission is that after earning all above average CRs, he was not considered for extension of tenure just to harm him and provide further promotion to others in the unit. His further submission is that the applicant had never been counselled nor was there any red/black ink entry in his service record which may have debarred him for extension of tenure. He pleaded that discharge order dated 30.09.2014 and reasoned order dated 03.03.2015 be set aside and an order be issued to the respondents to re-instate the applicant in service with all consequential benefits.

4. On the other hand, respondents' version is that there is a record of performance counselling given to the applicant while serving during operational exercise with troops in

Punjab when he was caught by Corps of Military Police on 20.05.2013 in civil market. He further submitted that in addition to above, he was also counselled for his drop in performance after he was promoted to the rank of Naib Subedar. His other submission is that the applicant was screened by a Board of Officers as per policy letter dated 21.09.1998 which is the final authority to decide the extension of service. His further submission is that since total 06 JCOs including the applicant were screened by a Board of Officers but none of the JCOs were granted extension of service in the organisational interest, therefore question being bias to the applicant does not arise. He concluded for dismissal of O.A. on the ground that the applicant was not recommended for extension of tenure by a duly constituted Board of Officers convened under the authority of policy letter dated 21.09.1998 which is final authority to decide the extension of service.

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

6. Naib Subedar Ravinder Kumar Singh was enrolled in the Army on 09.09.1988 and got promoted to the rank of Naib Subedar on 01.08.2012. His service in the rank of Naib Subedar was due to be completed on 30.09.2014. There is

a provision for extension of service by two years for which a Board of Officers is constituted in the unit which recommends extension of service. Accordingly, as per policy letter dated 21.09.1998 a Board of Officers was constituted on 30.10.2012 in which 06 JCOs including the applicant were screened and none of the above JCOs were recommended for extension of tenure. For convenience sake, recommendation of the board is reproduced as under:-

"The board does not consider enhancement of service of above JCOs as the same will result in stagnation of further promotion of deserving persons in the unit for another two years."

7. The respondents contention that option to retain the individual depends upon the recommendation of Screening Board seems to be true and no prejudice was done to the applicant since all 06 JCOs were not recommended by Board of Officers for further extension of service. The decision of the Board of Officers as is evident is unbiased, as total 06 JCOs were under consideration in the board and none was granted extension.

8. Additionally, we have also perused the reasoned and speaking order dated 03.03.2017 which emphasizes that no injustice has been done to the applicant. On perusal we find that the applicant was not recommended for extension of tenure due to his drop in performance. For convenience

sake, the reasoned and speaking order dated 03.03.2017 is reproduced as under:-

"REASONED AND SPEAKING ORDER

1. Whereas, in reference to your representation dated 12 Feb 2015 received through Records The Rajput Regiment vide their letter No JC-480996/RKS/NE/PG dated 07 Apr 2015 and para 368 of Regulations for the Army 1987 (RE).

2. And whereas, you were enrolled in the Army (The Rajput Regiment) on 09 Sep 1988 and were posted to 9 Rajput on 20 Jun 1990. As per record held with this unit your date of birth is 02 Jan 1971.

3. And whereas, as per record held with this unit, you were promoted to the rank of Naik on 01 Jul 2004, Havildar on 01 May 2008 and Naib Subedar on 01 Aug 2012 in chain vacancy promotion.

4. And whereas, there was a drop in performance on becoming Naib Subedar and you exhibited lack of interest while discharging your duties. You were caught by Corps of Military Police on 20 May 2013 in civil market during an operational exercise with troops held in Punjab which reflected an unprofessional conduct by the person of your rank for which you were counselled by the Adjutant of the Battalion vide our letter No S/1003/2/A dated 31 May 2013.

5. And whereas, on 30 Sep 14 you were retired from Army Service on completion of your prescribed service of Naib Subedar rank which you got on your turn alongwith batch mates as per policy at the point of time. This policy was implemented considering the instructions given in note I of Appx 'C' to IHQ of MoD (Army) letter No B/33098/AG/PS-2(c) dated 21 Sep 1998 and even No dated 26 Nov 1999, wherein it is clearly stated that the option to retain the individual depends upon the board and screening board is the final authority to decide the extension of service. It is also evident from the facts of screening board that out of 06, none of the junior commissioned officers were granted extension of service in the organisational interest. The decision of the board of officers did not violate principal of equality and was done in the best interest of the professionalism and organisation.

6. And whereas, the unit does not deny anyone to serve in the organisation. Decisions are taken as per policies and guidelines of the organisation. Each enrolled person has to be retired from service on completion of their terms and conditions of service, the same have been followed in your instant case also.

7. *And whereas, on receipt of Original Application filed by you against non disposal of statutory complaint dated 19 Feb 2015 addressed to Chief of the Army Staff, a reasoned speaking order is served to you (i.e. JC-480996W Ex Naib Subedar Ravindra Kumar Singh) by hand through a special courier, who had come to your home address on temporary duty and collected official receipt from you. Hence the directions of the Hon'ble Armed Forces Tribunal are complied with."*

9. Thus, we are of the view that the action taken by the respondents is in accordance with the policy on the subject which needs no interference by this Tribunal.

10. In view of the above, the O.A. is devoid of merit and deserves to be dismissed. It is accordingly, dismissed.

11. No order as to costs.

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

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

Dated: 23.03.2022

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