

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

O.A. No. 7 of 2021

Friday, this the 11th day of March, 2022

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

Sikandar Kumar Singh (Army No 18004331N), Rank SPR, son of Shri Chandrama Singh, permanent address, Village-Sarna, District-Bhojpur, State-Bihar, presently resident of C-14, Sulabh Awas, Shristi Apartment, Kursi Road, PS-Gudumba, Lucknow.

..... Applicant

Ld. Counsel for the: **Shri Manish Mishra**, Advocate
Applicant **Shri Sandeep Shukla**, Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi.
2. The Lieutenant General, E-in-C Branch, Kashmir House, Nirman Bhawan, New Delhi.
3. The Commanding Officer, OIC Records, Bengal Engineering Group, Roorkee.
4. Senior Record Officer, The Garhwal Rifles, PIN-900400, C/O 56 APO.

..... Respondents

Ld. Counsel for the : **Shri Arun Kumar Sahu**, Advocate
Respondents Central Govt Counsel.

ORDER (Oral)

1. The instant Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant with the following prayers :-

"(i) To issue an appropriate order or direction to the opposite parties to inform the reason of premature discharge of the applicant from service as no physical or mental disability is there in the applicant.

(ii) To issue an appropriate order or direction to the opposite party No 2 to decide the representation dated 25.06.2019 by a reasoned and speaking order.

(iii) To issue any other appropriate order or direction, which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

(iv) To award the cost of original application.

2. Brief facts of the case are that having been enrolled in Army on 07.07.2009, applicant was posted to 67 Engineer Regiment. While serving with the aforesaid unit, applicant was detailed to work under the supervision of Subedar Sarveshwar Prasad of 33 Company where in the month of January, 2018 there was some dispute between him and the Company Commander where he had submitted an application for premature discharge from service and accordingly he was discharged from service w.e.f. 31.10.2018. Applicant has filed this O.A. to find out reasons of his discharge as he claims that he has not put any application for premature discharge.

3. Submission of learned counsel for the applicant is that in the month of June, 2018 he was called in the office of his Company Commander and forced to sign some blank papers on coercion and gun point which he did. His submission is that the applicant did not know as to why this blank papers was being got signed. On a query to this Subedar Major Sukhjinder Singh told him that this blank paper shall be used to tender apology regarding his misbehavior with Subedar Sarveshwar Prasad. His further submission is that on 14.10.2018 the applicant was directed to move to Records, Bengal Engineer Group, Roorkee. He reported to the Records and on 31.10.2018 he was discharged from service. His other submission is that no document was given to the applicant. Thereafter, applicant submitted a representation dated 25.06.2019 (Annexure-1) to E-in-C Branch, Kashmir House, Nirman Bhawan, New Delhi but when nothing happened in that he has filed this O.A.

4. On the other hand, submission of learned counsel for the respondents is that the applicant had himself given an application for premature discharge and the same was sanctioned in accordance with rules. His further submission is that the respondents have discharged applicant by following due procedure as per Army Rules, 1954 and there is no provision for reinstating a person in Army who has given application to proceed on discharge voluntarily. He pleaded for dismissal of O.A.

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

6. It is undisputed fact of the parties that applicant was enrolled in the Army on 07.07.2009 and he was discharged from service w.e.f. 31.10.2018 on receipt of his premature discharge application dated 19.08.2017 which was processed as per procedure in vogue and discharge order was sanctioned vide letter dated 12.03.2018 mentioning therein to be discharged w.e.f. 31.10.2018. In para 7 of O.A. applicant has mentioned that he had given no such application for premature discharge but perusal of records reveals that applicant himself had given such an application dated 19.08.2017 (Annexudre R-1). For convenience sake application dated 19.08.2017 is reproduced as under:-

सेवा में- श्रीमान कमान अधिकारी महोदय
67 अभियंता सैन्य दल
मार्फत 56 सेनापत्रालय

“प्रेषक- न. 18004331एन
पद-सेपर
नाम-सिकंदर कुमार सिंह
33 पुल निर्माण शाखा

विषय - सेवा निवृत्ति हेतु प्रार्थना पत्र
महोदय,
निवेदन इस प्रकार है कि मैं न. 18004331एन सेपर सिकंदर कुमार सिंह वर्तमान समय में आपके अधीनस्थ 33 पुल निर्माण शाखा में सेवारत हूँ | महोदय मैं घर पर अकेला हूँ घर की देखभाल करने वाला कोई नहीं है जिस वजह से मैं सेना से सेवानिवृत्ति होना चाहता हूँ | अतः महोदय से नम्र निवेदन है कि प्रार्थी की उपरोक्त समस्या को मध्यनजर रखते हुए प्रार्थी को सेवा निवृत्ति करने की कृपा कीजिये, इस कार्य के लिए प्रार्थी सदैव आपका आभारी रहेगा |

प्रार्थी,
न. 18004331एन
पद-सेपर
नाम-सिकंदर कुमार सिंह
हस्ताक्षर sd/- x x x x x
दिनांक - 19 अगस्त 2017

7. From the aforesaid, it is crystal clear that the applicant had himself given a premature discharge application which was recommended by the Commanding Officer and discharge order was issued vide letter dated 12.03.2018 to proceed on discharge w.e.f.

31.10.2018. There seems to be no foul play on the part of the respondents and it does not seem as if that applicant was forced to submit an application for premature discharge. The submission of learned counsel for the applicant that applicant was forced to write down the application for his discharge does not appeal to us inasmuch as nothing has been brought on record to show that the applicant was forced to write down such an application under coercion. The Commanding Officer or any junior officer do not seem to be in the unit were in any way biased or prejudiced towards the applicant. In the circumstances, it does not commend to us to accept that applicant was forced to prefer an application for premature discharge. From the contents of the application, it appears to us that the application was written by the applicant voluntarily in his own hand and without being coerced into writing it. Thus, we find no illegality, irregularity or impropriety in the order passed by the respondents to discharge applicant at his own request. The respondents have acted in terms of discharge application dated 19.08.2017.

8. In view of the above, O.A. No. 7 of 2021 has no merits, deserves to be dismissed and is hereby **dismissed**.

9. No order as to costs.

10. Pending miscellaneous applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 11.03.2022
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