

**Reserved****Court No.2****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION (A) No. 292 of 2021**Thursday, this the 02<sup>nd</sup> day of March, 2023**“Hon’ble Mr Justice Ravindra Nath Kakkar, Member (J)”****“Hon’ble Maj Gen Sanjay Singh, Member (A)”**

No. 15754557Y Ex Signalman Rahul Sorout, S/O Sri Mahesh Kumar, C/O Mukesh Kumar, R/O Vill & PO Rajpura Jat, Distt Mathura, (UP).

..... **Applicant**

Ld. Counsel for the Applicant : **Shri KK Misra, Advocate.**

Versus

1. Union of India, through its Secretary Ministry of Defence, New Delhi.
2. Chief of Army Staff, Army Head Quarters, New Delhi.
3. Officer -in-Charge, Records, Signal Regt, Jabalpur.
4. Commanding Officer, 56 Division Signal Regt, C/O 56 APO.
5. Commanding Officer, 656 EME Bn, C/O 56 APO

.....**Respondents**

Ld. Counsel for the Respondents. : **Shri Chet Narayan Singh,  
Central Govt Counsel**

## ORDER

**“Per Hon’ble Mr Justice Ravindra Nath Kakkar, Member (J)”**

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

- (i) to quash the proceedings of Summary Court Martial and there by its findings and sentence.*
- (ii) To instate the applicant in service w.e.f. the date of his dismissal with all consequential benefits of service.*
- (iii) any other relief which the Hon’ble Tribunal may think just and proper may be granted to the applicant.*
- (iv) Cost of the case may be awarded in favour of the applicant.*

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Army on 25.09.2017. On 16.02.2020, while on duty he consumed liquor and absented himself from duty. Applicant was tried by Summary Court Martial (SCM) under Army Act Section 40 (a) for assaulting his superior officer and under Army Act Section 48 of Intoxication and awarded punishment of Rigorous Imprisonment and dismissed from service. Being aggrieved, applicant has filed instant Original Application for reinstatement in service.

3. Learned counsel for the applicant submitted that on 16.02.2020 (Sunday) the applicant was detailed for Guard duty. After completion of duty, he deposited his weapon and consumed liquor. Guard Commander came to know that applicant has consumed liquor, he tried to ring up to the unit authorities. Applicant also tried to ring up unit authorities but telephone fell down from his hand. Then there was a heat argument between the applicant and Guard Commander and applicant was beaten by the Guard Commander and other Guards. Applicant took a weapon of L/Nk Arjun Singh and went to Guard Room and asked Nk Jitendra Kumar the reason of beating the applicant. During this process one Nk Ravindra came from behind and held the applicant and over powered the applicant. In this process one round was fired from weapon. The applicant was placed in Military custody. A Court of Inquiry was held but applicant was not informed about the outcome of the inquiry and disciplinary action was ordered against him. On 12.12.2020, the applicant was handed over a charge sheet containing two charges. Applicant was tried by SCM and awarded punishment of dismissal from service and to suffer rigorous sentence. Learned counsel for the applicant pleaded that conviction and sentence, both cannot be said to be impartial and fair. The trial, finding and sentence suffer from pre-conceived thoughts and decision, hence not sustainable in the eyes of law.

Learned counsel for the applicant prayed that punishment of dismissal awarded to the applicant be quashed and respondents be directed to reinstate the applicant in service.

4. On the other hand, learned counsel for the respondents submitted that applicant was detailed on duty at Counter Insurgency Field Area. He performed guard duties from 0800 hrs to 1000 hrs. After his duty, the applicant consumed liquor while being aware of upcoming next duty in the later part of the day. The applicant had heat arguments with Guard Commander and other sentries. The matter was reported to Adjutant. Applicant was brought back to the unit and kept under supervision. At night, the applicant escaped to Camp rear Post without informing anyone in the unit on pretext of going to toilet. The applicant was tried by SCM and awarded punishment of RI and dismissal from service. Original Application deserves dismissal on the following reasons being devoid of merit and lacking substance:-

- (i) Applicant consumed liquor while on duty and fired 1 round from Rifle.

(ii) Involvement in conflict resulting in assaulting his superior officer.

5. We have heard learned counsel for the parties and perused the documents available on record.

6. In the instant case, applicant was detailed on Guard duty in Field Area. He consumed liquor and misbehaved with his superiors. He took Rifle INSAS and fired one round. A Court of Inquiry was held to investigate the circumstances under which the applicant allegedly decamped with weapon. A SCM was held and applicant pleaded guilty and he was awarded punishment of RI and dismissal from service. He was warned by officer holding the trial in terms of Army Rule 115 (2) that he understood the nature of the charge to which he has pleaded guilty and the applicant was informed of the general effect of the plea. The applicant has shown a wrong conduct which cannot be expected from a disciplined soldier. We do not find any lacuna in the procedure adopted by the respondents to terminate the services of the applicant and awarding RI. The ratio of law laid down in various judgments relied upon by the applicant also supports the order of dismissal rather than allowing applicant to be in service. The applicant is not entitled to the relief prayed in Original Application to quash his dismissal order and to allow him to join duty.

7. We, therefore do not find any merit in the application to interfere with the impugned dismissal order passed by the respondent authority in terminating the services of the applicant. Consequently, the application being devoid of merit is liable to be **dismissed**. Resultantly, O.A. is **dismissed**.

8. No order as to costs.

9. Pending applications, if any, stand disposed off.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

**(Justice Ravindra Nath Kakkar)**  
**Member (J)**

Dated : 02 March, 2023

Ukt/-