

**Court No. 1 (E Court)****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 506 of 2021.**

Friday, this the 06<sup>th</sup> day of May, 2022

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

Akhilesh Kumar Singh son of Sri Ram Bharosh, permanent resident of Village-Mahua Toli, Post Office-Sugnu, Police Station-Khelgaon, District-Ranchi, Jharkhand, presently posted/discharge as Rifleman No 30062012, 137 CETF Bn (TA) 39 GR Pin-934337, New Cantt, Allahabad (UP).

..... Applicant

Ld. Counsel for the Applicant : **Shri SR Yadav**, Advocate holding brief for Shri Govind Kant Sharma, Advocate

Versus

1. Union of India through Principal Secretary Defence, Civil Secretariat, New Delhi.
2. Director General of Territorial Army (DG) (TA) L Block, Church Road, New Delhi, PIN-110000.
3. DL Khojol, Lt Col Second in command (2IC), 137 Composite Ecological Task Force (CETF) Battalion (Bn) Territorial Army (TA), 39 Gorkha Rifles (GR), Pin-934337, New Cantt, Allahabad (UP).
4. Amit Pande, Col NM Commanding Officer (CO), 137 Composite Ecological Task Force, (CETF) Battalion (Bn) Territorial Army (TA), 39 Gorkha Rifles (GR), Pin-934337, New Cantt, Allahabad (UP).

.....Respondents

Ld. Counsel for the Respondents. : **Shri RC Shukla**, Advocate  
Central Govt. Counsel

## ORDER

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

*(a) That this Hon'ble Tribunal may kindly set aside/quash the impugned discharge/termination order dated 04.06.2021 annexed as Annexure No 1 to this O.A. and direct the opposite parties to re-instate the applicant with all consequential benefits in the interest of justice.*

*(b) That the cost of the original application may kindly be awarded to the applicant.*

*(c) That any other order, which this Hon'ble Tribunal may deem fit and proper may also be passed in favour of the applicant and against the opposite parties.*

2. Brief facts of the case are that the applicant, an Army pensioner, was re-enrolled in Composite Ecological Task Force (CETF) as clerk general duty. During the course of his service he had an altercation with Mess Commander and in the scuffle he hit him with a heavy metal ladle. On 30.08.2020 the applicant breached Covid-19 protocol instructions and on inquiry he reacted aggressively and started verbally abusing Subedar Major in the Battalion. Accordingly, a one man inquiry was ordered in which he was found guilty and was awarded 10 days detention by the Commanding Officer. Subsequent to the incident of detention, the applicant did not show interest in unit activities and was verbally counselled on a number of occasions by seniors but he did not improve his conduct. A Board of Officers was constituted which recommended the applicant to be discharged from service and accordingly, he was discharged from service w.e.f. 04.06.2021 in

terms of Rule 14 (b) (iii) of Territorial Army Rules, 1948 (Revised Edition 1976). Applicant has filed this O.A. to quash the order dated 04.06.2021 and re-instate him into service with all consequential benefits.

3. Submission of learned counsel for the applicant is that the applicant is very civilized and sincere person who was enrolled in the Army on 25.04.1997 and was discharged from service on 30.11.2018 having put in more than 21 years service. His work and conduct was good and he earned no adverse remarks while serving in the Army, as exhibited in Annexure No 2 (discharge book). He was re-enrolled in CETF Battalion Territorial Army (TA), 39 Gorkha Rifles (GR) on 01.03.2019 and served in the unit to the entire satisfaction of his seniors. His further submission is that while serving in the unit his name was recommended for award of COAS Commendation Card on Republic Day 2020 (Annexure No 5) alongwith Lt Col Deepak Kumar but the respondents had not forwarded the same to higher authorities arbitrarily. His other submission is that applicant's work was also appreciated by various Junior Commissioned Officers in the unit (Annexures 6 to 10). His other version is that the unit to which he was posted belonged to Gorkha personnel and there were few non Gorkha personnel in the unit. He being a non Gorkha person was always subjected to harassment and the Subedar Major being a Gorkha was not happy with him as once he objected to him using abusive language. He submitted that the applicant belonged to a poor family and he wanted to serve in the unit for the sake of his family

but he was thrown out on a trivial ground alleging that he misbehaved with Subedar Major which is not true. He pleaded to set aside order dated 04.06.2021 and re-instate the applicant in service with all consequential benefits.

4. On the other hand, learned counsel for the respondents submitted that the applicant while serving in 137 CETF Bn (TA) 39 GR was involved in an indiscipline case in which, during Covid-19 pandemic, when there were restrictions for movement of troops, he breached the same and was caught by Subedar Major and when asked he entered into a scuffle with him. Resultantly, he was awarded punishment for 10 days detention in the unit. He further submitted that under the provisions of para 2 (e) of Govt of India, MoD letter dated 30.10.2018 unsuitable/undesirable enrolled personnel of Infantry Battalion (Territorial Army) Ecological units, whenever found unsuitable by the unit Board of Officers are discharged from service in terms of Rule 14 (b) (iii) of TA Regulations, 1948 (Revised Edition 1976) after approval of Commander TA Group. Since the applicant was sentenced for 10 days detention in unit lines, his case for extension of service was not recommended by Board of Officers and accordingly, he was discharged from service w.e.f. 04.06.2021. He submitted that applicant was not recommended for extension of service based on his previous performance and accordingly, he was discharged from service. He pleaded for dismissal of O.A.

5. Heard learned counsel for the parties and perused the material placed on record.

6. The Govt of India, MoD has raised Composite Ecological Task Force (CETF) Battalion for implementing the programme of pollution abatement and Ganga rejuvenation. For this purpose ex-servicemen, within five years of their retirement, are eligible for re-enrolment and they are allowed to serve upto the age of 55 years. Applicant Rfn Akhilesh Kumar Singh was enrolled in 137 CETF Bn (TA) 39 GR on 01.03.2019 and during the course of his service a one man inquiry was conducted which found him guilty. He was tried summarily under Section 80-82 of the Army Act, 1950 and awarded punishment for 10 days detention in the unit on 30.08.2020 under Section 63 of the Army Act, 1950 for an act prejudicial to good order and military discipline.

7. The period of enrolment in Ecological Units is 02 years commencing from the date of enrolment and may be extended by 01 year at a time and up to 05 years subject to satisfactory performance and suitability for further retention in service. For extension of service a Board of Officers is conducted every year to decide suitability for extension of tenure. In the instant case since the applicant was punished on 30.08.2020, he was denied further extension by a Board of Officers conducted on 12.02.2021 based on his half yearly performance report and indisciplined profile in terms of para 2 (b) 3 of policy letters dated 11.01.2012 and 10.01.2014 respectively. He was, therefore, discharged from service w.e.f. 04.06.2021. We have also perused applicant's performance report dated 31.12.2020 in which his Company Commander has endorsed the following remarks:-

*“The indl is indisciplined and has misbehaved with seniors and pers alike. One man enquiry was order against the indl and he was found guilty and awarded 10 days detention. The indl has not shown interest in unit activity and counselled on no of occasions but no improvement observed in his discipline which is detrimental to good mil order and discipline.”*

8. Apropos above, we observe that the applicant has been discharged from service on the authority of a duly constituted Board of Officers based on his unsatisfactory performance and we find no illegality in his discharge from service.

9. In view of the above, the O.A. is **dismissed** being devoid of merit.

10. No order as to costs.

11. Miscellaneous applications, pending if any, stand dismissed.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 06.05.2022

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