

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW

Original Application No. 191 of 2013 (IAF)

Thursday the 15th day of October, 2015

(Court No. 2)

**“Hon’ble Mr. Justice Abdul Mateen, Member (J)
Hon’ble Lt. Gen. A.M. Verma, Member (A)”**

No.722732-R Ex-Sgt Vijay Kumar Maithil, son of Shri Balkrishna, resident of village Maharupurkhar, P.O. Jahanganj, District Farrukhabad, U.P.

..... Applicant

By Shri Shailendra Kumar Singh, Counsel for the Applicant.

Versus

1. Union of India, Ministry of Defence, South Block, New Delhi-110106.
2. Chief of Air Staff, Air Headquarters, Vyu Bhavan, New Delhi-110011.
3. AOC-in-C, HQ Training Command, IAF Bangalore (KTK)-560006
4. AOC-in-C, HQ Maintenance Command, IAF Nagpur (MAH)-440007
5. AOC, Air Force Station, Bidar (KTK)-585401
6. CO, 29 ED, Air Force Station, Chakeri Kanpur (UP)-208008
7. Stn Cdr, 12 FBSU c/o 56 APO

8. AOC, Air Force Records Office, Subroto Park, New Delhi-110010

9. Director-III, Dte of Air Veterans, Subroto Park, New Delhi-110010

.....Respondents.

By Shri D.K.Pandey, Counsel for the respondents alongwith Wing Commander S.K Pandey, Departmental Representative.

ORDER

1. Heard Shri Shailendra Kumar Singh, learned counsel for the applicant and Shri D.K.Pandey, learned Standing Counsel appearing for the respondents, duly assisted by Wing Commander S.K.Pandey, Departmental Representative.

2. This O.A has been preferred by the applicant praying therein that his dismissal from service by order dated 18.2.2013 passed by respondent no. 3 be set aside and the respondents be directed to reinstate him in service from the date of dismissal (21.2.2013) with all consequential benefits.

3. It comes out from the record that the applicant was tried in Sessions Trial No. 350 of 2003, under Section 302 read with Section 34 IPC, Section 307 read with Section 34 IPC and Section 504 IPC by Additional District and Sessions Judge, Kanpur Nagar and convicted for

a maximum term of Life Imprisonment by the judgment and order dated 19.1.2008. Against the said judgment and order, the applicant preferred Criminal Appeal No. 317 of 2008 before the Hon'ble High Court of Allahabad, wherein he has been granted bail vide order dated 15.2.2008. Pursuant to the aforesaid conviction of the applicant in the criminal trial, he has now been dismissed from service by the competent authority exercising its powers under Section 20(3) of the Air Force Act, 1950 read with Rule 18(1) of the Air Force Rules, 1969.

4. Argument advanced by the learned counsel for the applicant is that since the applicant was granted bail by the Hon'ble High Court, his services have been illegally dispensed with by the authority under garb of powers under Section 20(3) of the Air Force Act, 1950 read with Rule 18(1) of the Air Force Rules, 1969. He further submits that while granting bail to the applicant in appeal, the sentence awarded to the applicant has been suspended and the said appeal is still pending before the Hon'ble High Court.

5. We do not find any substance in the argument raised by the learned counsel for the applicant. Though the sentence has been suspended, but conviction of the applicant still remains. We, therefore, find no illegality in passing the order of dismissal against the applicant by the competent authority in exercise of powers under Section 20(3) of the Air Force Act, 1950 read with Rule 18(1) of the Air Force Rules,

1969. Even on this date, the conviction of the applicant is subsisting, it being under challenge before the High Court in appeal.

6. Accordingly, this O.A being wholly misconceived is hereby dismissed. No costs.

(Lt. Gen. A.M. Verma)
Member (A)

(Justice Abdul Mateen)
Member (J)

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