

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****Original Application No. 217 of 2013**Tuesday, this the 27th day of October 2015**Hon'ble Mr. Justice D.P. Singh, Member (J)**
Hon'ble Air Marshal Anil Chopra, Member (A)Ex. Rifleman Manvendra Singh, (No.2897805)
S/O Late Maharaj Singh, R/O Vill. Tikar Bahadurpur,
P.O. – Keshavpur, P.S.-Imaliay Sultanpur, Tehsil &
Distt.- Sitapur (U.P.)

.....Applicant

Ld. Counsel for : **Yashpal Singh,**
the Applicant **Advocate**

Versus

1. Union of India, through the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Indian Army, Army Headquarters, New Delhi.
3. Director General of Infantry, Inf-6 (Pers) General Staff Shakha, Army Headquarters, 435 'A' Wing, Sena Bhawan, New Delhi-110011.
4. Officer-In-Charge Records, Records the Rajputana Rifles, Delhi Cantt.-10.
5. Commander, Headquarters, 170, Infantry Brigade, C/o 56 , Army Postal Service.

.....Respondent

Ld. Counsel for the : **Mrs. Deepti Pd. Bajpai, Senior**
Respondents **Standing Counsel assisted by**
Lt Col Subodh Verma,
OIC Legal Cell.

ORDER(ORAL)

1. Heard learned counsel for the parties and perused the record.
2. This is an application under Section 14 of the Armed Forces Tribunal Act 2007. Being aggrieved by the impugned order of discharge passed on account of controversy for appearing in High School examination twice on different date of birth and name.
3. The applicant was enrolled in the Army on 08.01.2001. One Shri Hari Karan Singh has sent a letter to the army authorities on 12.08.2002 describing that the applicant has appeared in the High School examination twice with different names of Raj Kumar Singh and Manvendra Singh. In the first instance his date of birth and name is different than mentioned in second instance. After necessary enquiry, it was found that the allegation was correct hence a Show Cause Notice dated 10.02.2004 was served to the applicant in response to which the applicant submitted his reply dated 26.02.2004 denying the allegations. However during the course of court of enquiry a letter dated 21.12.2002 was taken into account which shows that the applicant appeared twice in the High School Board examination on different names. Keeping in view submission of the applicant, he was discharged from service by impugned movement order dated 26.02.2004.

Submission of the Ld. Counsel for the applicant is that the applicant was forcibly compelled to sign the letter dated 21.12.2002 which has been filed as Annexure No 7 to C.A. It is further submitted by Ld. Counsel for the applicant that notice issued to the applicant was defective as it does not contain particulars of allegations found to be true against the applicant in consequence thereof the applicant could not submit proper reply. He further submitted that notice does not contain the entire allegations related with even appearing twice in High School examination is incorrect as alleged by Shri Harkaran Singh. The letter dated 21.12.2002 is not signed by the applicant. In the absence of any reference by the respondents with regard to complaint of Shri Harikaran Singh, the applicant was not provided proper opportunity to submit reply of the notice.

However the fact remains that letter dated 21.12.2002 which contains admission on part of the applicant with his own signature is on record. In case the applicant was forcibly compelled to sign the letter dated 21.12.2002 and it is not applicant's own signature, then it was incumbent to the applicant to make complaint to higher authorities that he has not written this letter. He has not done so and not lodged any FIR with regard to allegations that the letter was not written by him. In normal course, it is human nature that whenever a person is treated unfairly and compelled to do certain things forcibly, then he approaches some authority. The applicant remained silence from 2004 to 2013 without raising any

grievance that he has not written the letter dated 21.12.2002. In such a situation compliance of natural justice shall be futile exercise of procedural safeguard, since the outcome of the fresh enquiry seems to be in known fact. Of course the applicant could not have kept silence for about 12 years then there would have been a case of interference but the applicant kept silence hence we do not find it right to interfere in the matter. because of non compliance of natural justice since seems to be defective. Since outcome of the controversy in question it is evident and likely to discharge from service. We are not inclined to interfere the impugned order that to after lapse of so many years. The applicant has not impleaded any army person who compelled him to sign the letter. Any malafied argument advanced by Ld. Counsel for the applicant seems not to be sustainable. Discharge of the applicant was recommended by the Commanding Officer, it is a policy decision dated **28.07.1998**. ? So far as it is concerned, it is not for the Court to interfere in the matter which is based on discretionary power of the army officers. It is open to the applicant to approach the army authorities in case he is advised to do so.

We do not find it a fit case to interfere in the matter.

The Original Application is devoid of merit and is rejected.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

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(Justice D.P. Singh)
Member (J)