

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****Transferred Application No 117 of 2012 with
Dy No. 272 of 2015**Thursday, this the 15th day of October 2015**Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)**Manoj Kumar Dixit, S/O Shri Rajendra Prasad Dixit,
R/o -Village-Kutra, Post-Umedan Tikra,
District-Unnao.

.....Petitioner

Ld. Counsel for : **Shri P.K. Shukla, Advocate**
the Applicant

Versus

1. Union of India through the Secretary of Defence Govt. of India, New Delhi.
2. Colonel/Commanding Officer No.1 Trg. Bn (AT) A.S.C. Centre (North).
3. The Chief of Army Staff, Army Headquarters DHQ Post Office, NEW DELHI.
4. The Director General of Military Training, General Staff Branch, Army Headquarters, DHQ Post Office, New Delhi.

.....Respondent

Ld. Counsel for the : **Shri Mukund Tewari, Central**
Respondents **Govt Counsel assisted by Lt Col**
Subodh Verma, OIC., Legal Cell.

ORDER(ORAL)

1. Heard Ld. Counsel for the parties and perused the record.
2. Civil Writ Petition No. 629 (SS) of 2005 has been received by this Tribunal by way of transfer from High Court of Judicature at Allahabad, Lucknow Bench, Lucknow and renumbered as T.A. No. 117 of 2012.
3. The writ petition was filed by the applicant being aggrieved by the order of discharge during the course of training. The applicant was selected in the Army on 27.01.2003 and reported for training on 30.01.2003. Admittedly, the applicant got injured during the course of training period and was got admitted in Military Hospital Gaya on 04.04.2003. He was referred to Military Hospital, Danapur, Bihar on 07.04.2003. The applicant remained in the Hospital up to 04.05.2003. After release from the Hospital, on 06.05.2003 the applicant left for home without grant of leave. In the absence of sanctioned leave, the applicant was absent for 66 days and reported again on duty on 12.06.2003. The applicant was punished for absenting himself without leave in quarter guard for 28 days rigorous imprisonment in Military custody. The applicant was sent for basic training of 19 weeks which was successfully completed by the applicant. The petitioner again absented himself without leave with effect from 13.08.2003 to 06.12.2003, i.e. for 116 days. He was apprehended from his native place Unnao and later on the applicant was apprehended by Superintendent of Police, Ahmedabad and brought back to unit on 06.12.2003. After summary trial, the applicant was punished and later on he was

discharged from service by impugned order dated 23.08.2004. The total period of absence of the applicant was 182 days during training period.

4. The factual matrix with regard to absence from duty during course of training period has not been explained by the applicant. The fact that he absented himself without leave during training period is not disputed. It is also not disputed that after discharge from hospital, he absented without sanctioned leave and he was punished with rigorous imprisonment with fine. A person who at entry level is so negligent and wanted to live his life in his own way, is not entitled to any relief. Thus, it is a serious case of misconduct on the part of applicant. The order of discharge passed by the competent authority does not suffer from any impropriety or illegality.

5. The Original Application deserves to be rejected, hence **rejected**.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

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

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