

**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No. 180 of 2020**

Monday, this the 4<sup>th</sup> day of October, 2021

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

Sonu Kumar Gautam  
S/o Shri Lutavan Ram  
R/o Village – Saraybandi, Post Office & PS - Birno,  
Tehsil & District – Ghazipur (UP) Pin-233300

**.... Applicant**

Ld. Counsel for the Applicant : **Shri Parmanand,**  
**Shri Ashish Kumar Jain** and  
**Shri Rajesh Kumar Sharma, Advocate**

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Officer Brigadier Commandant 1 Signal Training Centre, Jabalpur MP.
3. Colonel Commanding Officer, 1 Technical Training Regiment, 1 Signal Training Centre, Jabalpur, MP.

**... Respondents**

Ld. Counsel for the Respondents : **Shri Yogesh Kesarwani,**  
Central Govt Counsel

**ORDER (Oral)**

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

- “(a) The Hon’ble Tribunal may kindly be pleased to quash the termination order dated 29.06.2020 passed by respondents.
- (b) The Hon’ble Tribunal may kindly be pleased to direct the respondents to rejoin his service on the selected post to the applicant, in the interest of justice.
- (c) Any other appropriate order or direction which the Hon’ble Tribunal may deem just and proper in the nature and circumstances of the case.”

2. Brief facts of the case are that the applicant was enrolled in the Indian Army on 24.03.2018 from ARO Varanasi. On completion of basic military training applicant reported to 2 Signal Training Centre for technical training on 18.11.2018. An adverse verification in respect of the applicant was received wherein it was observed that vide FIR No. 46/12 dated 28.12.2012, applicant has been charged under Section 147, 323 and 325 of IPC registered vide NCR No. 1121/12 and Section 110G and 116 registered vide NCR No. 387/13 in Police Station, Birno, District – Ghazipur (UP). However, the applicant has been acquitted of all charges vide Chief Judicial Magistrate, Ghazipur Court order No. 1927/2018 dated 11.04.2019. The applicant has failed to disclose the correct facts of his involvement in a Criminal case at the time of enrolment in Enrolment Form i.e. on 24.03.2018. Therefore, applicant was issued a Show Cause Notice dated 10.04.2020 to explain reasons as to why he should not be dismissed from service under Army Act Section 20 read with Army Rule 17 for stating the falsehood during enrolment at ARO Varanasi which otherwise would have disentitled him to be enrolled in the service and

also amounts to grave misconduct and fraud by intentionally concealment of material fact during and post enrolment. The applicant submitted his reply dated 07.05.2020 which was examined and was not accepted by the authority concerned and Commandant 1 STC approved that services of the applicant be administratively terminated on account of intentional act of concealment, misconduct and manipulation of legal documents for the purpose of securing his enrolment in the Army. It was communicated to the applicant vide letter No. 29.06.2020. Accordingly, applicant was dismissed from service w.e.f 29.06.2020 under Army Act Section 20 in conjunction with Army Rule 17 for the offence committed at the time of enrolment at ARO Varanasi. The applicant being not satisfied with his removal from service has filed this Original Application to quash his termination order and to reinstate him in service.

3. Learned counsel for the applicant submitted that applicant was minor at the time of lodging FIR and no such incident took place therefore, Trial Court has acquitted the applicant and other co accused. The applicant submitted his application dated 16.06.2020 to respondent No. 2 requesting that case lodged against him was false and he has been acquitted by the Court, therefore, an opportunity be provided to him and termination order may be cancelled. The respondents have passed illegal order dated 29.06.2020 terminating the services of the applicant without holding court martial which is against the principle of natural justice.

4. Learned counsel for the applicant further submitted that Upper Chief Judicial Magistrate, District Ghazipur has not taken cognizance on that time the applicant was enrolled, therefore, the applicant was not aware about any criminal case lodged against him. After the enrolment of applicant, CJM has taken cognizance in case No. 1927/2018 and criminal case No. 1121/2012 during trial on 11.04.2019 and court has passed acquittal order and all accused are acquitted. He pleaded that applicant is innocent and law abiding person and therefore, his termination order be quashed and applicant should be reinstated into service.

5. Learned counsel for the respondents submitted that applicant was enrolled in the Indian Army on 24.03.2018 from ARO Varanasi. On completion of basic military training applicant reported to 2 Signal Training Centre for technical training. An adverse verification in respect of the applicant was received wherein it was observed that vide FIR No. 46/12 dated 28.12.2012, applicant has been charged under Section 147, 323 and 325 of IPC registered in Police Station, Birno, District – Ghazipur (UP). However, the applicant has been acquitted of all charges vide Chief Judicial Magistrate, Ghazipur Court order No. 1927/2018 dated 11.04.2019.

6. Learned counsel for the respondents further submitted that applicant has failed to disclose the correct facts of his involvement in a criminal case at the time of enrolment in Enrolment Form i.e. on 24.03.2018. Therefore, applicant was issued a Show Cause Notice

dated 10.04.2020 to explain reasons as to why he should not be dismissed from service under Army Act Section 20 read with Army Rule 17 for stating the falsehood during enrolment at ARO Varanasi which otherwise would have disentitled him to be enrolled in the Army which amounts to grave misconduct and fraud by intentionally concealment of material fact during and post enrolment. The applicant's reply dated 07.05.2020 was examined and was not acceptable by the authority concerned and therefore, Commandant 1 STC approved that services of the applicant be administratively terminated on account of intentional act of concealment, misconduct and manipulation of legal documents for the purpose of securing his enrolment in the Army. It was communicated to the applicant vide letter No. 29.06.2020. Accordingly, applicant was terminated from service w.e.f 29.06.2020 under Army Act Section 20 in conjunction with Army Rule 17 for the offence committed at the time of enrolment. He pleaded that applicant was dismissed from service as per rules, O.A. lacks merit and may be dismissed.

7. We have heard learned counsel for both sides and perused the material placed on record.

8. From perusal of records, we observe that applicant was involved in a criminal case before his enrolment and he has concealed this fact during his enrolment in the Army. Later on receipt of verification, an intentional act of concealment, misconduct and manipulation of legal documents for the purpose of securing his

enrolment in the Army came in the notice of the Army authorities. Therefore, applicant was removed from the service under the provisions of Army Act, Section 20 in conjunction with Army Rule 17.

9. In view of above, we find that applicant was dismissed from service according to rules for concealment of his involvement in a criminal case during enrolment in the Army and therefore, we do not find any illegality or illogicality in dismissing the applicant from service. The O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

10. No order as to costs.

**(Vice Admiral Abhay Raghunath Karve)**      **(Justice Umesh Chandra Srivastava)**  
Member (A)      Member (J)

Dated:      October, 2021

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