

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No 40 of 2021****Wednesday, this the 13<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)**No. 18015864W Rect Brij Bhushan Singh  
S/o Shri Shiv Prakash Singh  
R/o Vill & PO – Gaharoli, Tehsil – Lalganj  
Distt – Rae Bareli (UP) – 229202

..... Applicant

Ld. Counsel for the Applicant: **Shri Virat Anand Singh**, Advocate

Versus

1. Union of India and others, through the Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, IHQ of MOD (Army), DHQ PO, New Delhi – 110011
3. The Adjutant, BEG Roorkee (UK).

..... Respondents

Ld. Counsel for the Respondents : **Shri G.S. Sikarwar**,  
Central Govt Counsel.**ORDER (Oral)**

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

- “(i) To direct the respondents to take applicant on strength by allowing him to join his BEG Centre Roorkee and proceed as per law.
- (ii) To allow applicant to be taken under Military Custody by Central Command Military Police unit.

- (iii) To direct respondent number 03 to ensure no undue harassment to applicant during training.
- (iv) To direct the training command to change applicants training centre to other Engineers Group to ensure his safety and any further harassment.
- (v) To pass orders which their lordships may deem fit and proper in the existing facts and circumstances of the case.
- (vi) Allow this application with cost.”

2. The brief facts of the case are that the applicant was enrolled in the Indian Army on 21.12.2015. During training, applicant applied for three days of casual leave from 14 to 16.01.2016 to attend his sister's marriage but failed to rejoin duty on 17.01.2016 and was declared OSL. The applicant rejoined from OSL on 21.01.2016. The applicant admitted in MH Roorkee on 05.02.2016 and granted sick leave w.e.f. 16.02.2016 to 07.03.2016 but did not rejoin from sick leave and was declared OSL w.e.f 08.03.2016 and he rejoined on 21.03.2016. The applicant was again AWL on 24.03.2016. The applicant was brought to BEG Centre by his guardian on 07.05.2016 to complete his balance training. The applicant was awarded 28 days of RI as per Army Act Section 39. The applicant completed his BMT on 29.10.2016. During CIF phase, applicant was AWL on 22.03.2017 and rejoined on 31.03.2017. The applicant was awarded 28 days RI and 14 days pay fine. The applicant was released from custody on 05.05.2017 and he was again AWL on 06.05.2017. The applicant was brought to BEG Centre by escort party on 10.02.2019 upon the order of this Tribunal dated 05.02.2019. At Depot, he was given 28 days

imprisonment in Quarter Guard and 14 days pay fine. Soon after his punishment was over on 07.03.2019, applicant was sent out of Centre and his I Card was taken by force. The applicant again became AWL from 11.03.2019 and therefore, apprehension roll was issued on 19.03.2019. The applicant has filed the present Original Application to rejoin duty.

3. Learned counsel for the applicant submitted that applicant went on leave for treatment of her mother and when he reported back for duty, he was not permitted to join duty. The applicant was brought to BEG Centre by escort party on 10.02.2019 upon the order of this Tribunal dated 05.02.2019. The applicant went with the guard and reached BEG Centre Depot on 06.02.2019. At Depot, he was given 28 days imprisonment in Quarter Guard and 14 days pay fine. Soon after his punishment was over on 07.03.2019, applicant was sent out of Centre and his I Card was taken by force. Applicant stayed there for couple of days but he was not allowed entry in the Centre and therefore, he came back to his home.

4. Learned counsel for the applicant further submitted that certain PBORs in the Depot regiment are maintaining personal grudge, vendetta against the applicant, thus spoiling his military career and there being deliberate attempt by Instructors (Ustads) as vendetta harassing to the applicant not to complete his training. He pleaded to direct the respondents to allow him to join in BEG Centre Roorkee and to complete his training and service.

5. On the other hand, Ld. Counsel for the respondents submitted that applicant was enrolled in the Army on 21.12.2015 and reported to BEG Centre, Roorkee. After completion of 7<sup>th</sup> weeks of BMT, applicant applied for three days of casual leave from 14 to 16.01.2016 to attend his sister's marriage but failed to rejoin duty on 17.01.2016 and was declared OSL. The applicant rejoined from OSL on 21.01.2016. The applicant admitted in MH Roorkee on 05.02.2016 and granted sick leave w.e.f. 16.02.2016 to 07.03.2016 but did not rejoin from sick leave and was declared OSL w.e.f 08.03.2016 and he rejoined on 21.03.2016. The applicant was again AWL on 24.03.2016. The applicant was brought to BEG Centre by his guardian on 07.05.2016 to complete his balance training. The applicant was awarded 28 days of RI as per Army Act Section 39. The applicant completed his BMT on 29.10.2016. During CIF phase, applicant was AWL on 22.03.2017 and rejoined on 31.03.2017. The applicant was awarded 28 days RI and 14 days pay fine. The applicant was released from custody on 05.05.2017 and he was again AWL on 06.05.2017.

6. Learned counsel for the respondents further submitted that applicant was brought to BEG Centre by escort party on 10.02.2019 upon the order of this Tribunal dated 05.02.2019. Applicant was tried under Army Act Section 39 for OSL for period from 01.02.2018 to 10.02.2019 and was awarded 28 days RI and pay fine by the competent authority on 11.02.2019. The applicant was under imprisonment upto 10.03.2019 and became again AWL from

11.03.2019 and therefore, apprehension roll was issued on 19.03.2019. He also submitted that impugned action is wholly just, proper and in accordance with law and do not suffer from any error of law and jurisdiction. The applicant is not entitled to any relief and Original Application is liable to be dismissed.

7. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents and perused the record.

8. In the present case, the applicant filed earlier O.A. No. 369 of 2017 before this Tribunal which was disposed off vide order dated 01.09.2017 with following directions :-

“In view of above, we direct the applicant to report in his Unit within three weeks from today. If the applicant report for duty as directed above, the respondents shall take him on strength. However, liberty is given to the respondents to proceed against the applicant with regard to absence from duty or overstaying of leave if they so desire.”

9. We find that applicant rejoined duty at BEG Centre according to order of this Tribunal dated 01.09.2017 where he was tried under Army Act Section 39 for OSL period from 01.02.2018 to 10.02.2019 and was awarded 28 days RI and pay fine. The applicant was under imprisonment upto 10.03.2019 and again became absent from 11.03.2019. Considering the facts and circumstances of the case, the prayer made in O.A. to rejoin duty is allowed.

10. In view of above, the applicant is allowed to surrender and to report to BEG Centre, Roorkee within five weeks from the date of receipt/production of a certified copy of this order. The respondents are directed that they shall not put any hurdle, if applicant surrenders to resume duty at BEG Centre, Roorkee and shall take him on the

strength. The respondents will be at liberty to proceed against the applicant as per rules but no undue harassment will be made. It is clarified that applicant shall not be entitled for any back wages or other benefits.

11. With the aforesaid directions, Original Application stands disposed off finally.

12. Let certified copy of this order be provided to the parties within 48 hours for their further action/compliance.

13. No order as to costs.

14. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.

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

Dated: 13<sup>th</sup> October, 2021

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