

Original Application (Appeal) No. 86 of 2014

Thursday the 10th day of September, 2015

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

No. 2693721X Ex. Gdr. Rajan Singh Rajput, son of Late Prahalad Singh,
13 Grenadiers, resident of Village Piparia (Kushner), Post Panagar, District
Jabalpur (M.P.).

Applicant

By Shri Nishant Verma, counsel for the applicant.

Versus

1. Union of India, through its Defence Secretary, New Delhi.
2. Chief of the Army Staff, Adjutant General Branch, Integrated
Headquarter of M.O.D. (Army), New Delhi-110 011.
3. General Officer Commanding-in-Chief, Eastern Command.
4. Commanding Officer, 13th Battalion the Grenadiers.

..... Respondents.

By Shri Mukund Tewari, counsel for the respondents, along with Capt.
Ridhishri Sharma, Departmental Representative.

ORDER

1. Heard Shri Nishant Verma, learned counsel for the applicant, and Shri
Mukund Tewari, learned Standing Counsel along with Capt. Ridhishri

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ORDER

1. Heard Shri Nishant Verma, learned counsel for the applicant, and Shri
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Sharma, Departmental Representative, on this appeal, preferred by the
appellant under Section 15 of the A.F.T. Act, 2007, listed for admission.

2. The facts of the case, in brief, are that the appellant, having aggrieved
with respect to the outcome of SCM proceedings, initiated against him, with

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1. Heard Shri Nishant Verma, learned counsel for the applicant, and Shri
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respect to the charge under Section 38(1) of the Army Act for deserting
himself from service, has filed the present appeal before this Tribunal.

3. We have carefully gone through the evidence on record and find that
the appellant, while serving as Grenadier in the field area, was granted leave
from 28.4.2003 to 26.6.2003 but even after expiry of the leave period he did

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not join his duties and absconded himself. He was then declared deserter
from 27.6.2003 He, however, even after more than 8 years, tried to rejoin
his Unit voluntarily on 31.10.2011 and has been, accordingly, charged with
respect to commission of the aforesaid offence.

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4. In his statement, vide page 27 of the paper book, the appellant tried to
satisfy the Unit that since he was unwell due to various ailments suffered by
him, he could not join the Unit in time and during the period of his absence
he remained under treatment at Victoria Hospital, Jabalpur, and during SCM
he submitted prescriptions of the Victoria Hospital to substantiate that he

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was actually under treatment of the Doctors of Victoria Hospital. During
SCM, on verification of those prescriptions it came out that the medical
documents, viz. prescriptions etc. of the Victoria Hospital, Jabalpur, are
false and fictitious.

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5. It also comes out from the record that during the period of absence
after expiry of the leave period the appellant committed offence under
Sections 420, 467 and 468 IPC and sentenced accordingly. For the said
offence he, however, got himself released on bail. It has also come out from
the record that he was further sentenced for the offence under Section

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307/34 IPC and Arms Act and was remained in jail from March, 2010, from
where he was released on bail in August, 2011.

6. To sum up the case it comes out that even after expiry of the leave
period the appellant did not join his duties and tried to rejoin the Unit on
31.10.2011, i.e. after more than 8 years, but in the intervening period the

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defence taken by the appellant that he suffered different ailments and
remained under treatment with the Victoria Hospital, Jabalpur, but the
prescriptions submitted by him in SCM of the Victoria Hospital, Jabalpur,
on verification found to be false and fictitious and during the intervening

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period he remained in jail twice for the offences, referred to above, though
on both the count he was enlarged on bail.

7. Accordingly, finding no merit in this case, we dismiss this appeal
finally at the admission stage itself. No order as to costs.

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

(Justice Abdul Mateen)
Member (J)

PG.