

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

Court No.3

M.A. No.628 of 2015

Wednesday, this the 02nd day of September, 2015

Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)

Nayak Mohd. Rafeeq Bayasab Rolli
Force No.2794070 L of 22, Maratha LI Son of Byasab Rolli
Resident of Village : Ikkal,
Tahsil - Hanagad, Distt : Bagalkot,
Pin -587125 (Karnakata)

.....Applicant

By Legal Practitioner Shri Indra Prasad Yadav, Advocate

Versus

1. Union of India, Ministry of Defence, New Delhi-110011
through under Secretary.
2. Chief of Army Staff, Army Headquarters, New Delhi,
3. Chief Record Officer, Records, The Maratha Light
Infantry Pin – 900499
4. Brigadier/ Commander
31 Infantry Brigade, Head Quarter
32 Pin – 90802/ C/o 56 APO
5. Commanding Officer,
22 Maratha Light Infantry
Pin – 911622 c/o 56 A.P.O.
6. Chief Controller of Accounts (Pension)
Allahabad (U.P.)

.....Respondent

By Legal Practitioner

ORDER

(Passed in Court)

1. This application has been filed under section 14 of AFT Act (in short Act). Being aggrieved with the discharge from service on completion of terms of engagement. Statutory representation submitted by the applicant have been rejected by impugned order dated 07.03.2012 on the ground that in view of the Army Order Rule 35 of ----- No extension will be granted to a service person who has been involved in a criminal case.

2. The applicant was enrolled in the Army on 14.01.1981 and was retired from service after completion of terms and engagement as Naik on 31.08.1999. After discharge from service he was again engaged by DSC on contractual basis for a period of ten years with effect from 11.11.2002 and the contractual period under DSC was completed on 10.11.2012. There after extension in service was not granted on account of pendency of criminal case. It is admitted that a criminal case is pending against the applicant in offence of 307 in a court of law. He was convicted in pending criminal case consequent thereof he was granted bail from High Court. But the High Court order has not entitled the applicant for extension of service.

3. Learned council for the applicant admitted that the applicant was discharged from service in the year 1999. So the contractual period was expired in 2012. It seems that nothing has been brought on record to claim

extension in service when the contractual period expires, then there appears constitutory right available to the applicant to claim further extension otherwise policy under Rule 35 of 2011 through which applicant is not entitled for extension of service whether a criminal case is still pending in High Court is reproduced as under:-

Learned council for the responded admitted that vide the Army Order applicant is not granted extension of service. The Army Order in question has not been while in which provision as read hence applicant has not been considered for extension of service. No order will be passed by order or direction, which could relates with the service condition.

Thus, the O.A. lacks merit hence rejected. Before discharge from the Army in 1999 the applicant was posted as Naik, and In D.S.C. he was posted on the post of Sepoy.