

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision : 10.03.2008

+ **WP(C) No.11357/2004**

Sgt. Ullash Bhattacharjee Petitioner

Versus

1. Union of India
Through Secretary Defence,
South Block,
New Delhi
2. Chief of Air Staff
Air Headquarters
Vayu Bhawan,
New Delhi
3. Air Officer,
Commanding,
40 Wg. Air Force Respondents

Advocates who appeared in this case :

For the petitioner : Ms.Aishwarya Bhati, Advocate

For the respondents : Mr.Ashwani Bhardwaj, Advocate

HON'BLE MR.JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE J.M. MALIK

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

J.M. MALIK, J.

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1. The indictment against the petitioner, Sgt. Ullash Bhattacharjee, was as follows. While on the posted strength of 40 Wing, AF, he was staying in the house of Shri Shyam Singh, that is, Shiv Colony, Pinto Park III. Gayatri Vihar Colony from 29th November, 1998 till September, 1999 with his wife Smt. Munmun Bhattacharjee and their child. Petitioner's wife Smt. Munmun Bhattacharjee had contacts with Shri Sushil Kumar and his friend Shri Kailash. She used to gather classified/sensitive information on service matter from the petitioner, neighbours and friends which was in petitioner's knowledge, and passed it on to her friends Shri Sushil Kumar and Shri Kailash both of whom were stated to be Pak Intelligence agents and were not authorized to receive such information. The petitioner failed to intimate the service authorities about the above-said fact. He was dismissed from service vide order dated 10th February, 2003 under Section

20(1) of the Air Force Act, 1950 read with Rule 18 of the Air Force Rules, 1969. Under these circumstances, the instant writ petition was filed with a prayer that the order dated 10th February, 2003 be quashed being a non-speaking order passed under unguided statutory provision in erroneous and arbitrary manner. It was further prayed that the petitioner be reinstated with all consequential benefits.

2. The main contention of the learned counsel for the petitioner is that the alleged confession made by the petitioner is not voluntary. He was compelled to make it with a view to striking him off from the strength of Indian Air Force. The above-said confession was made under force, undue influence and coercion.

3. We have gone through the above-said confession. This confession clearly goes to show that the petitioner has admitted his guilt without ifs and buts. It must be borne in mind that confession is a direct acknowledgement of guilt by accused himself. The argument urged by counsel for the petitioner that this confession was obtained under duress, threat or promise is neither credible nor trustworthy in absence of any evidence to

the contrary. Another notable factor is that this fact does not find place in the reply submitted by the petitioner against show cause notice dated 9th December, 2002. It appears to be an afterthought and no weight can be pinned thereto. The petition is without force and therefore, the same is dismissed.

4. However, it was also brought to our notice that the petitioner has moved an application to the Chief of the Air Force Staff dated 16th September, 2003, wherein he has prayed that he should be granted service benefits like pension, provident fund and A.F.Group Insurance amount. It is also averred that the minimum pensionable service is 15 years whereas at the time of commission of the above-said offence the petitioner had already completed service of 18 years. It is explained that the petitioner has not received response to the said application. We hereby direct the Chief of the Air Staff to decide his above application within two months from today. A copy of this order be given dasti to both counsel for parties.

J.M. MALIK, J.

March 10, 2008
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A.K.SIKRI, J.