



2026:DHC:5615-DB



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

Date of decision: 13th July, 2026

+ W.P.(C) 9256/2026 & CM APPL. 43349/2026, CM APPL. 43350/2026, CM APPL. 43351/2026

1. **THE UNION OF INDIA**
THROUGH SECRETARY
DMA, DHQ PO
NEW DELHI-110011

...PETITIONER NO. 1

2. **THE CHIEF OF AIR STAFF**
AIR HEADQUARTERS
(VAYU BHAWAN), MOTILAL NEHRU MARG,
NEW DELHI-110106

...PETITIONER NO. 2

3. **AIR OFFICER COMMANDING**
AIR FORCE RECORD OFFICE
SUBROTO PARK, NEW DELHI-110010

...PETITIONER NO. 3

4. **AIR OFFICER COMMANDING**
104 (H) Sqn AF, %56 AFO

...PETITIONER NO. 4

Through: Mr Farman Ali, CGSC with Ms
Usha Jamnal GP, Wg Cdr K
Srikant, Wg Cdr TN Swamy,
MWO Ashok Jangid, Sgt
Shyam

Versus



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1. **CPL HARDEEP SINGH KHALSA**
S/O SHRI RAJ BAHADUR SINGH
PRESENTLY POSTED AT-104(H), Sqn, AF
%56 APO

...RESPONDENT NO. 1

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The present writ petition is filed by the Union of India seeking directions in the matter of issuance of writ of Certiorari *qua* the order of the Armed Forces Tribunal delivered in O.A. No. 2820/2025 on 22nd May, 2026.
2. Vide the impugned order dated 22nd May, 2026, the Tribunal has allowed the Original Application preferred by the respondent, thereby directing the present petitioner to discharge the respondent on or before 15th June, 2026.
3. The Show Cause Notice *['SCN']* and the proceedings initiated against the respondent under the Habitual Offenders Policy were quashed. A direction was issued to grant discharge to the respondent from service, with a clarification that the respondent shall not be entitled to pension, ex-servicemen status, or any retiral benefits.
4. It was also made clear that the dismissal under the Habitual



Offenders Policy will not create an embargo on the right of the respondent to seek future civil employment.

5. Learned counsel for the petitioners would invite our attention to the factual matrix, which led to filing of the original application. According to him, the respondent, an airman, was issued three red ink entries/warnings.

6. According to learned counsel for the petitioners, the fourth red ink entry in his record was in relation to his wife acquiring the employment in a foreign country (Canada), and a SCN for the same was issued to him *vide* notice dated 17th February, 2026.

7. According to the learned counsel for the petitioners, the fourth red ink entry accordingly based on the aforesaid conduct, which was admitted by the respondent, was made in his service book.

8. According to the learned counsel for the petitioners, the Tribunal has set-aside the said SCN, without understanding the gamut of the matter in its true perspective, as he would urge that the department had issued SCN to the respondent *qua* his wife having applied and taken up employment, without permission of the employer, with a private entrepreneur in an overseas country.

9. He would further claim that subsequent thereto, the wife of the respondent acquired a PR Card, and such conduct of the wife of the present respondent is in violation of the policy of the petitioner, particularly clauses 6.1 & 6.2 of Chapter VI of IAP 3904.

10. He would claim that the violations of restriction *viz.*, to obtain a



permission prior to not only seeking employment but also a PR Card, invites the punishment of disciplinary action against the respondent. He would invite the attention of this Court to the instructions issued by the higher authorities, thereby directing the initiation of action on the said issue *i.e.*, dated 21st May, 2026.

11. As such, according to him, without looking into the directions issued by the authorities, namely the Department of JAG, it is urged that the Armed Force Tribunal has proceeded to exercise the jurisdiction hastily, thereby not only quashing the SCN but also directing the discharge of the respondent from the services.

12. He would claim that though the SCN that was quashed was based on the issue *qua* the employment taken by the wife of the respondent without the permission of the employer, the petitioner is not precluded from taking action under Clause 6.8 of Chapter VI of IAP 3904 for securing the PR Card without there being intimation and permission from the employer. He would urge that such illegality committed by the respondent was overlooked by the Tribunal while granting the relief in question.

13. It is his further contention that the Tribunal has overlooked the aforesaid issue and has only proceeded on the aspect of the earlier SCN, which was in relation to the employment and not the PR Card, and the issue of the PR Card was not looked at all.

14. As against above, learned counsel for the respondent would urge that it is an admitted position borne out from the record that the respondent had sought discharge after three red ink notations were



made in his service record. He would claim that the returning of the proposal was treated as a rejection *qua* the request for discharge from service, and rightly so, the Tribunal exercised its jurisdiction.

15. He would further urge that while the SCN is based on the fact that the wife of the petitioner has secured employment without prior intimation/permission of the employer, the fact about her having acquired a PR Card was well within the knowledge of the petitioner. So as to substantiate the said contention, he has invited our attention to the proposal submitted by the respondent for the grant of discharge, wherein he has categorically stated about his wife having acquired a PR Card.

16. He would further claim that the said fact of the wife having acquired a PR Card was very much within the knowledge of the petitioner on 25th April, 2025, as could be ascertained from the *Annexure P-4*, which is an application for requesting for premature discharge.

17. As such, he would urge that the petitioner having chosen only to issue an SCN for the violation of the condition as regards the employment being sought in a foreign country without permission of the employer, the Tribunal was justified in exercising the jurisdiction.

18. Having considered the rival claims, the admitted facts which are borne out of the record are as under: -

- a. The respondent, in the capacity of an airman, has put in more than 11 years of service with the petitioner.



b. The respondent is married, and his spouse later improved her qualifications and sought employment in Canada in the said capacity, and not only secured employment but also secured a PR Card.

19. The fact about employment being secured based on her qualification and also the PR Card was brought to the knowledge of the petitioner, as could be inferred from the *Annexure-P4* communication dated 25th April, 2025. The aforesaid default on the part of the respondent has led to him being issued an SCN for discharge from service on the basis of having four red entries including the one on account of his spouse securing an employment, as noted hereinbefore.

20. The fact remains that the respondent himself had sought discharge from service, whereas the SCN which was issued by the petitioner was also for discharging the petitioner from service in view of his last three red ink notations in his record, so also the fourth red ink entry in regard to his wife having secured employment without permission/intimation to the employer of the respondent.

21. The fact that the employment was secured by the wife of the respondent was absolutely well within the knowledge of the petitioner, and perhaps the same has led to the issuance of the impugned SCN, which was subject matter of the application before the Armed Forces Tribunal.

22. However, it is also a matter of record that even during the pendency of OA, before the Armed Forces Tribunal, the petitioner



was well within the knowledge of the fact that when the respondent applied for discharge on 25th April, 2025, he had disclosed the fact of his wife having secured a PR Card.

23. In spite of the above, the petitioner has chosen to serve him an SCN in relation to the red ink entries in his service book and for discharge from service and one of the entry was on account of his wife having secured employment in a foreign country without the permission of the employer.

24. Primarily, the learned Tribunal was of the opinion that where an employee had not completed the qualifying service for pension, dismissal from service would permanently stigmatize the individual and adversely affect future employment prospect. In our opinion, the said fact rightly prevailed before the Tribunal for exercising jurisdiction, thereby ordering not only the quashing of the SCN but also directing discharge with a certain rider, as could be noticed in the order impugned.

25. We don't see any reason as to cause any interference in extraordinary jurisdiction in the view expressed by the Tribunal as, in our opinion, not only the Tribunal is armed with the powers to exercise the jurisdiction for which it has passed the impugned order, but the Tribunal, in our opinion, has rightly made the equities and passed the order impugned.

26. That being so, we see no reason to infer or accept the contentions raised by the petitioner that the respondent's wife having acquired a PR Card without permission from the petitioner can be said



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to lead to fresh proceedings against the respondent under the clause 6.8 of Chapter VI of IPA 3904 particularly when the issue was within their knowledge at the time of issuance of SCN which stood quashed by the learned Tribunal.

27. As such, the petition fails and stands dismissed.

28. Pending applications also stand disposed of.

29. A copy of this Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

JULY 13, 2026/sky/st