

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 13.01.2020  
CORAM  
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH  
W.P.No.35778 of 2019

Shiva Kumar

... Petitioner

.Vs.

- 1.The Union of India,  
Through the Defence Secretary,  
Government of India,Ministry of Defence (Army),  
South Block, DHQ PO, New Delhi 110 011.
- 2.The Chief of Army Staff,  
Integrated HQ of MOD (Army),  
Adjutant Genral's Branch, DHQ PO,  
New Delhi 110 011.
- 3.The Commandant, Headquarters,  
Madras Engineer Group and Centre,  
APS PIN: 900493, C/o.56 APO.
- 4.The Officer in Charge,  
The Records,  
Madras Engineer Group,  
APS PIN: 900 493. C/o. 56 APO.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider and pass orders on the petitioner's representation dated 03.09.2019, within a time frame as may be fixed by this Court.

For Petitioner : Mr.A.J.Alwin Prabhakar

For Respondents : Mr.R.Vasudevan  
Central Govt. Standing Counsel

O R D E R

This Writ Petition has been filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner dated 03.09.2019 and pass appropriate orders.

2.The case of the petitioner is that he joined Army in the year 2003. The petitioner was discharged from service on 06.03.2006, under Rule 13(3) of the Army Rules, by declaring that the petitioner is unsuitable for Army service and the said order was challenged by the petitioner by filing application in OA No.16 of 2016, before the armed forces Tribunal Regional Branch, Chennai. An order came to be passed by the Tribunal to the effect that the discharge of the petitioner should be treated as a normal discharge. The petitioner again approached the Tribunal, by filing the review petition and the Tribunal by an order dated 13.11.2017, clarified that the petitioner will be entitled to receive a proper discharge order from the Army and he will also be entitled to the consequential benefits.

3.The grievance of the petitioner is that even subsequent to the orders passed by the Tribunal, the consequential benefits have not been given to the petitioner and therefore, the petitioner made a representation to the respondents on 03.09.2019. This representation also did not evoke any response and therefore, the petitioner was constrained to approach this Court seeking for appropriate directions.

4.Heard Mr.A.J.Alwin Prabhakar, learned counsel appearing for the petitioner and Mr.R.Vasudevan, learned Central Government Standing Counsel appearing on behalf of the respondents.

5.Taking into consideration the facts and circumstances of the case and also of the fact that the armed forces Tribunal, has made it clear by their order dated 21.09.2016 and 13.11.2017 that the petitioner is entitled for a proper discharge order from the Army and the petitioner is also entitled for consequential benefits, there shall be a direction to the 3<sup>rd</sup> respondent to consider the representation made by the petitioner on 03.09.2019 and pass appropriate orders in line with the orders of the Tribunal and grant the consequential benefits to the petitioner, strictly within a period of eight weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 3<sup>rd</sup> respondent along with a copy of the representation dated 03.09.2019 and a copy of this order.

This writ petition is disposed of with the above directions. There shall be no order as to costs.

Sd/-  
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Defence Secretary,  
The Union of India,  
Government of India, Ministry of Defence (Army),  
South Block, DHQ PO, New Delhi 110 011.
2. The Chief of Army Staff,  
Integrated HQ of MOD (Army),  
Adjutant General's Branch, DHQ PO,  
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4. The Officer in Charge,  
The Records,  
Madras Engineer Group,  
APS PIN: 900 493. C/o. 56 APO.

+1cc to Mr. Alwyn Prabakar Advocate sr3006

W.P.No.35778 of 2019

mr(co)  
aa11/02/2020