

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1106 of 2014

In

Civil Writ Jurisdiction Case No.11688 of 2008

Jeet Jal Jjitendra Army No.1516264 Son of Jang Bahadur Singh resident of Village- Bikram Bigha, Post Office- Dhanau, Police Station- Nasriganj, District- Rohtas.

... .. Appellant/s

Versus

1. The Union of India
2. The Chief of the Army Staff, Sena Bhawan, New Delhi.
3. The Brigadier, 7, Infantry Brigade, 56 APO.
4. The Brigadier, Arty Record, Nasik Road C/o 56 APO.
5. The Major, Bty, Cor. H.Q. Bty, 141 Fd. Regiment Kargil.
6. The Commanding Officer, 141 Fd. Regiment Kargil C/o 56 APO.
7. The Captain, Arty Romeo Battery, 141 Fd. Regiment Kargil.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amaresh Kumar Jha, Advocate
For the Respondent/s : Mr.Rakesh Kr.Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 28-09-2022

In the present LPA, the appellant has assailed the order of learned Single Judge dated 24.04.2014 passed in CWJC No. 11688 of 2008. Para 5 to 7 of the counter affidavit is crystal clear that discharge of the appellant is based on his own admission . Para 5 to 7 reads as under:-

“ 5. That on 30th April 2006, Gunner(General Duty) Leet Lal Jeetendra put up his application for premature discharge through proper channel. The reason cited by the appellant for premature discharge was his



father's illness, i.e, tuberculosis. The appellant had mentioned that he was required at home to look after his father and property. On receipt of this application, he was interviewed by the Commanding Officer who tried to find out if there was any other reason for his request for premature discharge with such less service. Even after being counseled for long time, the appellant remained adamant and earnestly requested the Commanding Officer to send him on premature discharge, otherwise he would desert the Army Commanding Officer and Subedar Major even contacted the mother of the appellant, who as per records was his next of kin, to verify the facts. After getting the verbal consent of the next of kin and keeping in view unwillingness of the appellant, Commanding Officer finally assured him that he will constitute a unit petition committee to process the application as per laid down rules.

6. That a unit petition committee was constituted as per Army Headquarters letter No. A/10152/Policy/Arty-3 dated 06 March, 1995 and para 4 of SAO 31/s365, and on finding the case of the appellant genuine, the committee recommended his case for discharge. The appellant was once again given a chance to review his decision. The appellant remained firm on his decision to quit army and signed the required certificate as per his will. As such, application of the appellant along with relevant documents were awarded to Artillery Records and Artillery Records in turn approved his application and issued discharge orders vide letter No. 1377/CUO/Prem/NCOs/0R/39/RA-6 dated 20 May.

06. The appellant order was to be discharged w.e.f. 31 July, 2006 (AN).

Copies of the following documents are enclosed:-

A. Copy of Application of the appellant duly signed by him, vetted by Number 1, Battery Havildar Major, Senior JCO and



recommended by Battery Commander is annexed as Annexure-A.

b. Copy of Recommendation of Unit petition committee and remarks of the Commanding Officer is annexed as Annexure-B.

C. Copy of Unwillingness certificate from the appellant for further promotion is annexed as Annexure-C.

D. Copy of Certificate from initiating Officer and Reviewing Officer regarding interview of the appellant is annexed as Annexure-D.

E. Copy of Artillery Records letter number 1377/CUO/Prem/NCOs/0R/39/RA-6 dated 20 May, 2006 is annexed as Annexure-E.

7. That in first week of July, 2006 a copy of the complaint by Smt. Sita Devi was received by the Commanding Officer. On investigating from the submit and checking the records, it was found that No. 15162640N Gunner (General Duty) Jeet Lal Jeetendra is unmarried and Smt. Sita Devi is not the wife of the appellant. It is pertinent to mention that Gnr. Jeet Lal Jeetendra was undergoing training at Artillery Centre, Hyderabad throughout the year, 2003 and Smt. Sita Devi has mentioned at para 13 of her petition that she got married to him during 2003."

Moreover, the appellant has not assailed the order of discharge dated 31.07.2006 what has been challenged is subsequent to discharge order that is measurement order. When we posed the question as to why there is no challenge to the order of discharge dated 31.07.2006. Learned counsel for the appellant submitted that copy was not made available to him. However, he has not pointed out efforts made by him in seeking copy of the



discharge order even during pendency of the writ petition so as to enable the appellant to challenge the order of discharge dated 31.07.2006 by means of amendment of petition.

In the light of these facts and circumstances, the appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 24.04.2014 passed in CWJC No. 11688 of 2008. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

