

21.
01.8.2023
S.D.

W.P.A. 16458 of 2023

Pranab Kumar Sharma
Vs.
Union of India & Ors.

Mr. Lal Ratan Mondal
Ms. Sk. Kiran

..For the Petitioner

Mr. Partha Ghosh
Mr. Sovan Mukherjee

...For the U.O.I.

The petitioner was posted as an Airman in the Indian Airforce on November 29, 1982. The petitioner was discharged from service on February 2, 1985. The Discharge Certificate records that the petitioner has been discharged in accordance with Rule 15(j) of the Airforce Rules, 1969, as he is unlikely to make an efficient officer. The petitioner has now prayed for his retiral benefits.

Mr. Mondal, learned counsel appearing on behalf of the petitioner submits that since there was the aforesaid remarks in the said Discharge Certificate, the petitioner was unable to get a job elsewhere and, therefore, the petitioner's prayer for pensionary benefits should be considered sympathetically.

Mr. Ghosh, learned counsel appearing on behalf of the respondents submits that no part of cause of action has arisen within the territorial jurisdiction of this Hon'ble Court. The same has been recorded by an order passed by a Coordinate Bench on June 16, 2009 in W.P. No. 28829 (W) of 2008. The petitioner has again sought to agitate the grievances before this Hon'ble Court.

Considering the rival submissions of the parties and the material placed on record, this Court is of the view that the writ petition is barred by inordinate delay. The writ petitioner was discharged from service on February 2, 1985. The writ petitioner has sought to challenge the said order of discharge by filing a writ petition on July 12, 2023.

Since this Court is of the view that the inordinate delay on the part of the writ petitioner disentitles him from claiming a discretionary remedy, this Court has not gone into the issue of territorial jurisdiction. Beneficial reference may be made to a judgment of the Apex Court reported in (2015) 15 SCC 602 (**State of Jammu and Kashmir –vs- R. K. Zalpuri & Ors.**). Also on merit this Court finds that under Section 15(j) of the Airforce Rules, 1969 an Airman could be *discharged* from service during the period of training, if in the opinion of the commanding officer he was unlikely to make an *efficient*

Airman. Without such training being completed and the service of the petitioner being confirmed how he was *eligible* to pray for pensionary benefits has not been placed before this Court, either by way of materials on record or by arguments.

Accordingly, **W.P.A. 16458 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the present petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)