



W.P.No.14711 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.12.2022

PROUNOUNCED ON : 25.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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Ex.CPL.Ramalingam, N.

..Petitioner

Vs.

1.Union of India,

rep. by its Secretary, Ministry of Defence

New Delhi-110 011

2.Chief of the Air Staff

Air Head Quarters, Air Force

Vayu Bhavan

New Delhi-110 011

3.Air Officer Commanding

Air Force Record Office

New Delhi-110 010

4.Commanding Officer

MTTI, Air Force Station, Avadi

Chennai-600 055



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5.Station Commander

No.45 Wing, Air Force

C/o, 56 APO [Army Post Office]

6. Group Captain Chandsagar

C/o. DTE of PO

AIR HQ, West Bloc 6

R.K.Puram, New Delhi-110 066.

..Respondents.

Prayer : Writ Petition filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent pertaining to the order passed by appellate authority of the Air Force dated 10.12.2010 No.Air HQ/C23406/685/1148/PS and Air Officer Commanding, Air Force Record Office in R1/2510/1/RW (Div.) dated 04.03.1997 passed by 3rd respondent and intimated through 5th respondent vide their letter No.45W/C2101/1/2/P1 dated 16.03.1997 and quash the same and direct the respondents to reinstate the petitioner in service with all consequential benefits.

For petitioner : Mr.T.Sundaranathan

For respondents : Mr.S.Diwakar,

Central Govt. Senior Panel counsel.



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ORDER

This writ petition is filed challenging the order of the 2nd respondent - appellate authority who rejected the appeal of the writ petitioner and held that the petition seeking to set aside the discharge order is rejected as being devoid of merit and lacking in substance.

2. The Writ Petitioner joined IAF as an airman in Mechanical stream and enrolled on 15 June 1987. According to the petitioner, he was victimized and punished on several occasions without any basis and in contravention of applicable law.

3. On the other hand, respondent-Air Force, Ministry of Defence, Union of India, filed counter affidavit and submitted that the petitioner was a habitual offender and he repeated commission of offence by being absent without leave.

4. A perusal of the typed set of papers and the orders passed by the respondent authorities would go to show that the Air force initiated action



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against the petitioner and before discharging him from service, sufficient opportunity was given by serving show cause notice to him. However, since he repeated the specific offence, he was discharged from service. As a last option under the provisions of "AF Rules 1969, Chapter III, Rule 15(2)(g)(ii) stating his service was no longer required and he was unsuitable for retention in IAF, he was discharged.

5. It is contended by the learned counsel for the respondents that petitioner was in habit of overstaying the leave granted to him. The petitioner committed offence by absenting himself without proper permission, overstaying leave, for which the punishment awarded was 28 days detention.

6. The respondents found that the petitioner knowingly gave a false statement for withdrawal of AFFP fund that loan was required for development of agricultural land when no landed property is owned by him. Further the petitioner made false statement that his father holds land on lease, whereas he failed to submit a proof to that effect.



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7. The petitioner also found overstayed leave granted to him. The respondent states that overstayal of leave was regularized on two occasions once in the year 1994 from 16 September 1994 to 28 October 1994 (43 days) and subsequently in the year 1995 from 16 October 95 to 04 December 95 (50 days). This fact has been admitted by the petitioner in his application dated 03 September 1996.

8. It is seen that the petitioner was declared Potential Offender with three red ink entries. During the leave period, he was involved in Civil Case at his home town. Charge sheet was raised against him and was awarded punishment of reprimand by the then Commanding Officer. After punishment, the petitioner became habitual offender.

9. It is also clear that the petitioner did not submit any written reply to the show cause notice issued to him and re requested for annual leave since 97 and due to his overstayal, his discharge was sanctioned on 21.02.1997. Even when he was required to be present for unit strength, he was on long leave. Since he did not turn up, he was discharged on 27



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10. In the totality of circumstances, the respondents found that the discharge from the service is fully justified and therefore, the appellate authority rejected the petition filed by the petitioner.

11. The appellate authority has clearly pointed out that the petitioner has not brought anything substantial in the petition to interfere with the discharge of the said ex-airman under the provisions of AF Rules 1969 chapter III, Rule 15(2)(g) (ii) "Service no longer required unsuitable for retention in the Air Force" under the Habitual Offender Policy."

12. The order of the appellate authority was very clear and well founded and did not call for any interference. The definite conclusion arrived at by the Air Force authorities and the entire action initiated against the employee was based on substantive facts and materials and the same is to be endorsed by the Court, for the reason that the punishment imposed on the petitioner is after following proper procedure and after affording due opportunity. The impugned order is perfectly justified in



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rejecting the petition filed by the petitioner and this court do not find that there is no ground to interfere with the order impugned.

13. For the above reasons, the writ petition fails and is accordingly dismissed. No costs.

25.04.2023

Index: Yes/No
Speaking/Non-speaking order
nvsri

To
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