

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

145

CWP-4185 of 2024
Date of Decision:06.03.2024

Baljinder Singh No.3407649X Ex. Sepoy

....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. A. K. Jain, Advocate, and
Mr. Varun Baanth, Advocate,
for the petitioner.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner is an ex-employee of the Indian Army, who was declared deserter and was dismissed from service vide order dated 20.04.2011. It is a case of the petitioner that he absented on 20.03.2008 and had reported back on duty on 09.12.2010 but inspite of his having reported back on duty, he was treated as absent and has been deserted and the order of dismissal was passed on 20.04.2011. The petitioner has challenged the said proceedings before the Armed Forces Tribunal, Chandigarh Bench, Chandigarh (for short “the AFT”) who has rejected his Original Application (O.A). No.3294 of 2019.
2. Learned counsel for the petitioner submitted that the AFT has wrongfully rejected his aforesaid OA No.3294 of 2019. He has also

vehemently argued that the petitioner ought not be denied the remedy on the ground of having filed the Original Application in 2019 as the petitioner has been representing sometime again.

3. We have considered the submissions and found that the AFT took into consideration the order passed on 20.04.2011 which had been communicated to the petitioner by registered post and also noticed that even if the contention of the petitioner is to be accepted that he did not receive the order dated 20.04.2011, the information and relevant documents were made available to him again on 06.02.2015 which included the order of dismissal. However, the petitioner has not challenged the said order at that time and he is after four years of the date of supply of documents i.e. 06.02.2015 that the O.A. has been filed. This Court also finds that the petitioner could have joined within three years from the date being declared as deserter.

4. Army Order 43/2001 of the DV provides as under:-

“a person subject to the Army Act or a reservist subject to Indian Reserve Forces Act, who deos not surrender or is not apprehdned, will be dismissed from the service under Army Act Section 19 read with Army Rule 14 or Army Act Section 20 read with Armay Rule 17, as the case may be, in accordance with instructions given below:-

a) xxxxx xxxxxx xxxxxx

b) After 3 years of absence/desertion in other cases.”

5. However, as of now, this Court would unable to grant any relief, the delay in filing Original Application before the AFT after having received documents on 06.02.2015 as remained unexplained. Four years is more than reasonable time in which the petitioner could have raised his grievances. In

fact, he has accepted his fate in all the 4 years.

6. Finding no merit in the present petition, the same is hereby dismissed.
7. Pending applications, if any, also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

March 06, 2024
dinesh

Whether speaking

Whether reportable

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Yes/No

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Yes/No