

2024 PHHC:100529-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-13999-2024 (O&M)

Date of Decision: 06.08.2024

MOHANJIT SINGH

.....Petitioner

Versus

HON'BLE ARMED FORCES TRIBUNAL & ORS.Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Gursharan, Advocate for petitioner.

Mr. Rohit Verma, Sr. Panel Counsel
for the respondents-UOI.

SUDHIR SINGH, J.

Challenge in the present writ petition is to the order dated 25.08.2023 (Annexure P-2) passed by the learned Armed Forces Tribunal, Regional Bench, Chandigarh, whereby the Original Application filed by the petitioner was dismissed being barred by limitation.

2. It is the case of the petitioner that he joined Military service on 05.02.1999, and after completion of basic military training period, he was posted to SIKH LI Centre on 19.03.2000. While serving with 6th SIKH LI, the petitioner was granted 10 days casual leave w.e.f. 25.11.2005 to 04.12.2005, for shifting his family to his

native village. The wife of the petitioner was suffering from alarming disease which was under diagnose by the medical authorities. During the said period of the leave of the petitioner, his wife had developed serious health problems and the petitioner was required to attend his ailing wife. Vide letter dated 02.12.2005, he reported the details of medical reports and nature of disease suffered by his wife and had sought extension of casual leave or grant him 30 days annual leave, but the petitioner did not receive any reply. The petitioner ultimately joined his duties on 10.02.2006. He was summarily tried under Section 39(b) of the Army Act and 14 days' fine was imposed upon him and his service were regularized as in continuation of period of service. It is further the case of the petitioner that he was issued movement orders dated 13.06.2006, and was directed to report for duties to his parent Unit 6th SIKH LI, but on way he had received the news about the deteriorating health of his wife and due to said reason, the petitioner could not report for the duties at his unit. On 17.08.2006, the wife of the petitioner expired and vide letter dated 20.08.2006, he had apprised the Army authorities about the said fact. It is further the case of the petitioner that he tried to report for the duties, but he was not allowed to do so by the authorities. Thereafter respondent No.4 issued an Apprehension Roll for the petitioner on the ground that the petitioner was a deserter and ultimately, he was dismissed from service to 07.05.2011.

3. The Original Application filed by the petitioner has been dismissed by the learned AFT being barred by limitation. It was noticed that the petitioner was dismissed from service on 07.05.2011,

and he filed the Original Application on 02.12.2019 i.e. after the delay of 8 years 8 months 216 days. It was further found that even if assumed that the petitioner became mentally depressed and physically unfit due to the untimely death of his wife, then also the alleged incapacity on this count could not extend till 2019. It was further found by the Tribunal that no proof regarding the mental illness and physical incapability of the petitioner, was placed on record and that the ignorance of law could not extend for 13 years.

4. We find that the order passed by the learned Tribunal does not suffer from any illegality or perversity. It is the case of the petitioner himself that on an earlier occasion, he had remained on unauthorized leave and for that he was imposed 14 days' fine. On 13.06.2006, he was transferred to his parent Unit, but he failed to report for the duties. The said conduct clearly shows that the petitioner was in the habit of absconding from the duties. As a member of the disciplined Force, the petitioner cannot be excepted to perform his duties at his whims and fancies.

5. Be that as it may, the fact remains that the petitioner had challenged his dismissal order after a gap of nearly nine years. Neither any sufficient cause was shown before the learned Tribunal nor any such cause could be shown before this Court. It is settled law that a litigant, who sleeps over his right, cannot be granted any benefit. Thus, filing the Original Application before the learned Tribunal after a delay of nearly nine years, was rightly held to be barred by limitation.

6. In view of the above, we do not find any merit in the present writ petition, the same is hereby dismissed.

[SUDHIR SINGH]
JUDGE

[KARAMJIT SINGH]
JUDGE

06.08.2024
Himanshu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No