

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14026 OF 2025

Ex-Nb Sub (Ambulance Asstt) No.JC-699867P .. Petitioner

Vs.

The Union of India,

Through Defence Secretary and Ors.

.. Respondents

Mr. Iqbal Ahmed Siddiqui, Advocate for the Petitioner.

None for the Respondents.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 12TH NOVEMBER 2025.

P.C. :

Aggrieved by the order dated 6th April 2023, by which Original Application No.102 of 2016 was dismissed, the petitioner who was Naib Subedar (Ambulance Assistant) has approached this Court.

2. In Original Application No.102 of 2016, the petitioner challenged the Medical Board proceedings dated 24th July 2015 and opinion rendered by Lt. Col. Neelam Rathi, Graded Specialist (Psychiatry) on 16th July 2015. He also laid a challenge to the order dated 27th June 2016 and sought upgradation of his medical category to "Shape AYE" and reinstatement in service from the date of discharge with promotion in the rank of Subedar with effect from 1st November 2015. The learned counsel for the petitioner referred to observations of the Tribunal in paragraph no.24 of its decision dated 6th April 2023 and submitted that there was no evidence of alcohol dependency of the petitioner and the

discharge order dated 20th September 2010 was passed ignoring the mandatory statutory requirements in law.

3. The powers of the writ Court under Article 226 of the Constitution of India are very limited when a challenge is laid to the order passed by the departmental authority. As held in “*State of Andhra Pradesh v. Chitra Venkata Rao*” (1975) 2 SCC 557, the writ Court does not act as an appellate authority to the decisions of the departmental orders passed against the delinquent government employee. It is well settled that a certiorari shall not lie on the ground that some error of fact or in law has been committed by the departmental authority. The writ Court shall exercise its powers of judicial review only in cases where it is established that the punishment order contravenes mandatory statutory provision or was passed in breach of rules of natural justice. The Tribunal recorded the previous history of misconduct of the petitioner and approved the discharge order on the basis of the undisputed facts and the “note” of the physician in the civil hospital which records that the petitioner himself wanted to undergo treatment for de-addiction. The petitioner was punished for misbehaviour and joining issues with seniors under the influence of liquor. On the second occasion, he was found quarreling with fellow army soldiers under the influence of liquor. There were records of liver function test and other medical reports such as BAC test, Gama GT etc. The Tribunal took note of such materials in paragraph nos.15 and 16 of its order which read as under:

“15] As far as the presence of alcohol in his blood is concerned, it appears that no blood test was carried to verify the extent of alcohol in his blood stain. The aforesaid test is called B.A.C. (Blood Alcohol Concentration) test. There is no evidence on record that this test was carried out. Various other tests such as liver function test etc. were carried on him. Gama G.T. is one such test which is a test for liver function. At page no.56 of the

compilation, this test (although carried out at Private Lab) shows the reading as 33.5 u/I. The normal range is between 8 to 61. Thus, the reading shows no abnormality in the liver of the applicant.

- 16] *The next document (i.e. a report of Civil Hospital, Ahmedabad), is at page no.69 filed by applicant shows that patient wants to get alcohol deaddiction. This is a clinical note dated 14.08.2015. Another document is clinical note at page no.70 (again of Civil Hospital, Ahmedabad), in which it has been stated that the patient came for alcohol related query. The note at page no.71 carries advise to stop alcohol. The document at page no.74 is a document of General Hospital at Sola in which it has been shown that the applicant was brought by wife, no withdrawal symptoms were found on him. Medical prescription pad of Apollo Hospital is at page nos.79 and 80 in which liver function test is advised, however it has been marked as under:-*

“Alcohol use negative social pattern C stable personality pattern nothing to say of any diagnostic psychopathology, requiring my intervention”.

4. The Tribunal has also referred to medical case sheet of Military Hospital, Meerut and summary and opinion of the Graded Specialist (Psychiatrist). In view of such medical reports and opinions of the doctors, there is no reason to interfere with the order dated 6th April 2023 passed by the Tribunal in Original Application No.102 of 2016. While declining to interfere with the said impugned order, we have in our mind the law laid down by the Hon’ble Supreme Court in “*Syed Yakoob v. K.S. Radhakrishnan*” 1963 SCC OnLine SC 24.

5. Writ Petition No.14026 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]