



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5144 OF 2023

Ex. OPR Ukey Ravindra Arjun Vs The Ministry of Defence, thr. its Secretary and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.G. Lacharwar, counsel for petitioner.

CORAM : ANIL S. KILOR and RAJNISH R. VYAS, JJ.

DATE : 04/12/2025

1. The challenge raised in the present writ petition is to the order dated 27/07/2022, passed by the Armed Forces Tribunal, Regional Bench, Mumbai, dismissing the original application preferred by the petitioner.

2. In the original application, following were the prayers made by the petitioner:-

- i) *Quash and set aside the impugned dismissal order dated ___February 2010 and letter/order dated 26/10/2010 passed by the Col. A. Bhargava, Director Coord & Pers for DG Army AD.*
- ii) *Direct the Respondents to grant compensation of Rs. 15.00 Lacs to the applicant.*
- iii) *Direct the Respondents to issue Disability Certificate of the percentage to the applicant in view of cause of bullet injury on 29th October 2005.*
- iv) *Direct the respondents to grant Disability Benefits to the applicant.*
- v) *Allow the representation made by the applicant on 25/5/2010.*

vi) *Allow the instant Original application, in the interest of justice.*

3. These prayers were made by the petitioner in the background of the following facts as stated in the original application and reproduced as under :-

4.1 *That, the applicant was reported to Training on 16th Sept. 2004 at Nashik after getting selected for Technical Post from Recruitment Rally of Gondia District in State of Maharashtra. The applicant had successfully completed his basic training of 19 months on 13th February 2005 and advance training of 6 months had been completed on 13th July 2005 and reported to 131 AD Regiment, C/o 99 APO on very first posting on 26/9/2005. The applicant had joined his First Posting on 26/9/2005 after attending the passing out parade dated 24/9/2005. The applicant stood position at RHQ and was performing his duties promptly.*

4.2 *The applicant submits that BHM of the said 131 AD Regiment during one of the routine Roll Call, announced that some Jawans have to proceed to Chhatarpur village, Orrisa, for Internal Security Duty Demo Scheduled to be held on 29th October 2005 along with Civil Police to sympathize with victim of Orrisa Cyclone of 29th October 1999.*

4.3 *The applicant stood selected for the Internal Security Duty Demo along with other colleagues and was sent for the said schedule along with Captain Choudhari and Major Bawa under their Command and Control.*

4.4 *It is submitted that the duty Demo Exercise the roll of the Army was to exhibit and demonstrate as to how the Army Control the mob/public when the Civil Police fails to do so.*

4.5 *Everybody including the present applicant was allotted with their respective roles to play and accordingly the applicant's role was to act as an Union Leader, leading a Morcha with shouting slogans and was to fall down no sooner Captain Choudhari left hand shoulder open Fire on the order of the said Captain Choudhari as if the Bullet hit the applicant and thereafter applicant had to start running after getting up.*

4.6 The said Captain Choudhari had two soldiers at his disposal with loaded SLR Riffal under kneeling position to his left and right side. The applicant's role as started above in Para 4.5 to lead the Morcha as an Union Leader with shouting slogan and Captain Choudhari had ordered his left hand soldier to fire and applicant was to fell down. If the bullet hit the applicant and had to run there after getting-up and the applicant did exactly what the applicant had to do than during exercise of 29th October 2005.

4.7 However, it is submitted that Captain Choudhari's another order of fire to his right hand soldier no sooner the applicant as a part of acting started running after getting-up, hit the applicant's left leg and bullet got stuck there and applicant fell down with bullet injury and everybody present there than through that the applicant was acting when the fact of matter that the applicant than stood wounded with bullet injury.

4.8 The applicant due to the aforesaid bullet injury during the period of service, had been shifted to Unit Section Hospital, where the X-Ray Report of the injury of the applicant was taken, wherein it is clearly mentioned that the Stuck bullet into the applicant's left left.

4.9 The Commanding Officer, Col. Bhargava immediately rushed to Unit-Section Hospital, no sooner stood informed about the casualty/ incident by Major Bawa and Captain Choudhari. The said Col. Bhargava and Major Bawa and Captain Choudhari discussed the above incident amongst themselves without involving the applicant and in connivance with each other, refers the applicant to send Civil Hospital Berhampur on the said date 29/10/2005 instead of Military Hospital by avoiding to register and report the matter/incident with Civil Police as than warranted in accordance with law with the law of land.

4.10 It is submitted that the Doctor of the Civil Hospital, initially refused to admit the applicant. However, the said Major Bawa got the applicant admitted by falsely claiming that some metal got stuck into the left leg of the applicant while the applicant was working at equipment section and asked the applicant to give same statement by threatening of dire consequences.

4.11 It is submitted that the applicant was hospitalized in Civil Hospital Berhampur on Bed No. 442 as an Indoor Patient with

Registration No. 1173 right from 29th October 2005 to 5th November 2005 and that time the applicant had gone operation in the said Hospital and Dr. Bhatt at Civil Hospital at Berhampur, had taken out the said stuck in Bullet from the applicant's left leg.

4.12 It is submitted that the Commanding Officer Col. Bhargava avoided to take on official record the cause bullet injury to the applicant while on duty on 29.10.2005. The said Commanding Officer shown the applicant on normal duty by suppressing the entire actual facts and incident and admission and immediately after getting discharge from Civil Hospital Berhampur, on 5th November 2005 and kept the applicant in Unit Sick Quarter upto 9th December 2005. The Commanding officer has not paid a single pie to the applicant towards medical expenses of the Civil Hospital and the applicant has borne all medical expenses and the Commending officer, instead of making help to the applicant, unnecessary harassed mentally and physically to the applicant through the Senior JCO Bacchansingh. A copy of discharge card dated 5/11/2005 is annexed as Annexure-A.

4.13 It is submitted that accordingly the applicant who was on annual leave from 8th May, 2006 to 5th July 2006 routed his identity card before the said Col. Bhargava, registered post on 5th of July 2006. However, the said Commanding officer Col Bhargava betrayed the applicant by avoiding to release the discharge certificate with factual annotation even after receipt of applicant's identity card and got the applicant declared as deserter on 11th August 2008, that too when the applicant was well within his reach and knowledge. Prima-facie the said Col. Bhargava very systematically in a planned manner got ousted the applicant from the services not only himself but also his subordinate officials Major Bawa and Captain Choudhari and Senor JCO Bacchansingh of their Committee, committed misdeed and illegalities towards the applicant and simultaneously to avoid surfacing the matter/incident of the said date 29th October 2005 sooner or later on official record.

4.14 The applicant came to be dismissed from services on 20th October 2009 and the same is communicated to the applicant on 10th February 2010, for the reason "over staying leave w.e.f. 7th July 2006. A copy of dismissal order dated February, 2010 wherein the dismissal effected from 20th Oct. 2009.

4. The learned Tribunal, after considering the rival submissions, passed the impugned order. The findings are recorded in para Nos. 7 to 17.

5. Having gone through the above referred observations, it is evident that, the learned Tribunal has considered the relevant authorities and provisions. In the absence of any perversity being pointed out, we do not find any reasons to interfere with the findings recorded by the learned Tribunal.

6. At this stage, learned counsel for the petitioner is pressing for compensation and reimbursement of medical expenses incurred during the hospitalization. To establish the quantum of damages caused to the petitioner or medical expenses incurred, evidence is required, and this Court cannot determine such amounts in writ jurisdiction. Therefore, we do not find interfere with the order of the learned Tribunal. However, we grant liberty to the petitioner to claim such expenses or compensation, if permissible under the law, by filing appropriate proceedings before the appropriate forum.

7. In view of the above facts and circumstances, the writ petition is **dismissed**.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)