



WEB COPY

W.P.No.12631 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.12631 of 2024

Ex.Hav(Hone/Nb/Sub)
Ex-Army.No.13881451,
M.Vijayakumar, aged 58 years,
S/o.G.Mahadeva Mudhaliar,
Modikuppam Village and Post,
Gudiyatham Taluk, Vellore District,
Tamil Nadu.

... Petitioner

Vs.

1. Union of India,
Represented by the Secretary to Ministry of Defence,
D.H.Q.P.O, South Block,
New Delhi - 11.
2. The Chief of Army Staff,
CAOS,
Secretariat South Block,
Army Head Quarters,
D.H.Q.P.O, South Block,
New Delhi -11.
3. The Commandant and OIC Records,
ASC Centre and College,
Agaram Post, Bangalore.
4. Colonel K.D.Sen,



WEB COPY

5.

Commanding Officer,
533 ASC Battalion,
C/O 56 APO.

General Officer Commanding,
1 Corps, C/o.56 APo.

W.P.No.12631 of 22



... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for an issuance of writ of certiorarified mandamus, by calling for the records of the order passed by the Armed Forces Tribunal, Regional Bench, Chennai in O.A.No.34 of 2023 dated 02.08.2023, and quash the same and directing the 1st respondent to elevate the cadre of the petitioner to Subedar rank.

For Petitioner : Mr.S.Rahul Kumar Jain
for Mr.M.Sivaraman

For Respondents : Mr.M.Ramamoorthy
SPCCG for R1 to R5

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The order of Armed Forces Tribunal, Regional Bench, Chennai dated 02.08.2023 in O.A.No.34 of 2023 is sought to be assailed in the present writ proceedings.

2. The applicant before the Tribunal is the petitioner before this



WEB COPY

3. Admittedly, the writ petitioner was enrolled in the Indian Army on 22.01.1980 and discharge on 31.01.2006 after rendering 26 years and 9 days of service. He is receiving service pension.

4. The grievance of the petitioner is that he was not promoted to the post of Naib Subedar. The petitioner has not filed any appeal petition nor approached the Tribunal during the relevant point of time. After a prolonged delay, the writ petitioner filed Original Application before the Tribunal in the year 2023 in OA.No.34 of 2023 challenging the order of rejection dated 24.11.2004.

5. The Original Application itself has been instituted after a delay of about 19 years.

6. Section 22 (1) of the Armed Forces Tribunal Act, 2007 reads as follows:

*"22(1) The Tribunal shall not admit an application -
(a) in a case where a final order such as is mentioned in*



WEB COPY

W.P.No.12631 of 20



clause (a) of sub-section (2) of Section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(b) in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of Section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(c) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court."

7. Admittedly, the original application has been filed after a delay of 19 years from the date of passing of the impugned order and thus the original application is not entertainable under the provisions of the Armed Forces Tribunal Act, 2007. The Tribunal also considered these aspects and dismissed the application.

8. We do not find any infirmity in the order impugned and the same stands confirmed. Accordingly, the Writ Petition stands **dismissed**. No costs.



W.P.No.12631 of 2025

[S.M.S,J.] [K.R.S,J.]
17.04.2025

WEB COPY

veda

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. Union of India,
Represented by the Secretary to Ministry of Defence,
D.H.Q.P.O, South Block,
New Delhi - 11.
2. The Chief of Army Staff,
CAOS,
Secretariat South Block,
Army Head Quarters,
D.H.Q.P.O, South Block,
New Delhi -11.
3. The Commandant and OIC Records,
ASC Centre and College,
Agaram Post, Bangalore.
4. Colonel K.D.Sen,
Commanding Officer,
533 ASC Battalion,
C/O 56 APO.
5. General Officer Commanding,
1 Corps, C/o.56 APo.



WEB COPY



W.P.No.12631 of 2

S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

veda

W.P.No.12631 of 2024

17.04.2025