



W.P.No.47198 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

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Ex Rect. R.Ezhilarasan
No.14641872Y
S/o.M.Ranganathan
R/o – Vill-Netteri,
Gudiyattam RS Post
Taluk – Gudiyattam
District – Vellore,
Tamil Nadu – 635 803.

Petitioner

Vs

- 1.Union of India
Rep. by the Secretary,
Ministry of Defense,
Govt. of India, South Block,
New Delhi-1100011
- 2.The Directorate General of EME (EME Pers)
Master General of Ordinance Branch,
IHQ of MoD (Army) DHQ Post,
New Delhi-110105
- 3.The Officer -in-Charge
EME Records, Pin-900 453,
C/o. 65 APO.



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4.The Commanding Officer
No.1, Training Battalion,
No.1 EME Centre,
Secunderabad-10.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the Order dated 22.11.2022 in O.A. (A) No.13 of 2018 passed by the Hon'ble Armed Forces Tribunal, Regional Bench, Chennai and quash the same consequently to re-instate the petitioner into service w.e.f. of 05 Sep. 2001 with all back wages, seniority, promotions and attendant benefits or to re-instate the petitioner into service notionally w.e.f. 5th Sep. 2001 and grant service pension to the petitioner w.e.f. the date the petitioner completes 15 years of reckonable service with consequential benefits.

For Petitioner: Mr.AQ Choudhury

For Respondents: Mr.V.Chandrasekaran
Senior Panel Counsel

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Heard on admission.



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2. The order passed by the Armed Forces Tribunal, Regional Bench, Chennai, is assailed mainly on the ground that the Tribunal failed to appreciate that the provisions contained in Section 44 of the Army Act, 1950 [the Act] could not be taken recourse to, as it is not a case where the petitioner was found to be lacking requisite qualification for appointment on the post of Cook.

3. According to learned counsel for the petitioner, even if it is assumed that a fake SSLC certificate was submitted by the petitioner, as it did not affect his eligibility to hold the post, no court-martial proceedings could be initiated. The second submission of learned counsel for the petitioner is that summary court-martial proceedings were drawn contrary to the provisions of the Army Act and the Rules. The third submission is that in view of the judgment of the Hon'ble Supreme Court in the case of **Ex. Sepoy Surendra Singh Yadav v. Chief Record Officer and another**¹, in the present case, the provisions contained in Section 44 of the Act could not have at all been taken recourse to.

¹(2019) 9 SCC 140



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4. The submissions made by learned counsel for the petitioner are opposed by learned counsel for the respondents, who argued in support the order passed by the Tribunal.

5. Admittedly, the petitioner, while seeking employment as Cook, has submitted SSLC certificate [Secondary School Leaving Certificate] in order to convince the authority that he had passed 10th standard. True it is that the eligibility qualification for appointment to the post of Cook is only 8th pass, submission of fake certificate of possessing higher qualification was only intended to offer his candidature as more competitive and more qualified and suitable as compared to all other candidates.

6. It is, thus, crystal clear that in order to seek employment, the petitioner had submitted a fake certificate, to which the petitioner has no answer.

7. The question, therefore, which arises for consideration is whether the respondents could have initiated proceedings under Section 44 of the Act.



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8. The provision of Section 44 of the Act, for ready reference, is reproduced below:

"44. False answers on enrolment.- Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled shall, on conviction by Court-Martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned."

9. It is amply clear that a person who is found to have willfully given false answer to any question set forth in the prescribed form of enrolment which has been put to him by enrolling officer before whom he appears for the purpose of being enrolled, could be subjected to proceedings of court-martial. The punishments which could be imposed have been delineated in Section 71 of the Act as below:

"71. Punishments awardable by courts-martial. Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial, according to the scale following, that is to say,-



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- (a) death;*
- (b) transportation for life or for any period not less than seven years;*
- (c) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;*
- (d) cashiering, in the case of officers;*
- (e) dismissal from the service;*
- (f) reduction to the ranks or to a lower rank or grade or place in the list of their rank, in the case of warrant officers;
and reduction to the ranks or to a lower rank or grade, in the case of non- commissioned officers:
Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy;*
- (g) forfeiture of seniority of rank, in the case of officers, junior commissioned officers, warrant officers and noncommissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;*
- (h) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;*
- (i) severe reprimand or reprimand, in the case of officers, junior commissioned officers, warrant officers and noncommissioned officers;*



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(j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;

(k) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;

(l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.”

One of the punishments contemplated in the said provision is dismissal from service.

10. Even though the authority could have imposed a punishment of jail sentence up to five years, they have decided to impose punishment of dismissal from service.

11. The argument that while conducting summary court-martial under Section 44 of the Act, either principles of natural justice were violated or that any particular provision contained in the Act and Rules was violated, is not substantiated from any of the grounds, much less



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any material placed before us.

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12. In any case, it is well settled that principles of natural justice are not unruly horse. Once it is proved beyond any pale of doubt that the SSLC certificate submitted by the petitioner before the authority at the time of recruitment was a fake document, the petitioner cannot complain of violation of principles of natural justice or any other technical violation of the Rules, though it is not made out in the present case.

13. The decision of the Hon'ble Supreme Court in the case of *Ex. Sepoy Surendra Singh Yadav* (supra) has no application in the present case. In that case, the appellant claimed that he cannot be discharged, but can only be dismissed or removed under Section 20(3) of the Act. The said submission was refuted by the Supreme Court and it was held that though the respondents therein committed an error in referring the case of the appellant therein under Section 20(3) of the Act, no error was committed in exercising power under Rule 13 of the Army Rules, 1954 to discharge the appellant. The facts of the present case and that in the case of *Ex. Sepoy Surendra Singh Yadav* (supra) are dissimilar.



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14. The present is a case of summary court-martial under Section 44 of the Act. Therefore, what will be the effect of exoneration in the case of summary court-martial in the matter of holding enquiry under Section 20(3) of the Act does not arise for consideration. There is no jurisdictional error, patent illegality and perversity calling interference of this Court in exercise of supervisory jurisdiction or certiorari jurisdiction under Article 226 of the Constitution of India.

The petition is devoid of merits and is, accordingly, dismissed, sans costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
09.12.2025

Index : Yes/No
Neutral Citation : Yes/No
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To:

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- 1.The Secretary,
Union of India
Ministry of Defense,
Govt. of India, South Block,
New Delhi-1100011
- 2.The Directorate General of EME (EME Pers)
Master General of Ordinance Branch,
IHQ of MoD (Army) DHQ Post,
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