



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

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CRWP-632-2012 (O&M)
Decided on :07.05.2026

YEVALE ASHRU RAOSAHEB

...Petitioner

Versus

UNION OF INDIA & ORS.

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

PRESENT: Mr. N. K. Kohli, Advocate for the petitioner.

Ms. Promila Nain, Senior Advocate
Senior Panel counsel with
Ms. Angel Walia, Advocate for the respondent-UOI.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present criminal writ petition, challenge is to the impugned order dated 25.01.2012 (Annexure P-5) passed by respondent No. 2, Armed Forces Tribunal, Regional Bench, Chandigarh (hereinafter referred to as “the Tribunal”), whereby the challenge raised to the Summary Court Martial proceedings and the punishment imposed vide order dated 18.12.2009, according to which, the petitioner was sentenced to rigorous imprisonment for a period of nine months and dismissed from service, has been rejected.

2. Learned counsel appearing on behalf of the petitioner contends that the Summary Court Martial proceedings were primarily based upon the alleged confessional statement of the petitioner. Learned counsel for the petitioner submits that due opportunity was not afforded to the petitioner to defend himself during the proceedings and that the Tribunal erred in upholding the Summary Court Martial proceedings wherein the petitioner

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was held guilty only on the basis of the alleged confession made by him.

3. Learned counsel for the petitioner further submits that the Summary Court Martial proceedings were conducted in a manner causing prejudice to the petitioner, as he had apprehension against respondent No. 4, namely Col. Vikas Sharma, the Commanding Officer, who was known to the complainant- the wife of his colleague. Learned counsel for the petitioner further submits that the said Commanding Officer had extracted the confession from the petitioner and that the petitioner's request for transfer of the proceedings to another officer was rejected. Learned counsel for the petitioner submits that due opportunity was not afforded to the petitioner or his assisting lawyer to defend the petitioner during the proceeding and all these facts have gone unnoticed by the Tribunal so as to uphold such Summary Court Martial Proceedings which lead to the imposition of sentence of rigorous imprisonment for a period of nine months and dismissal from service.

4. Per contra, learned counsel for the respondents submits that all the allegations raised by the petitioner are an afterthought. learned counsel for the respondents submits that the petitioner voluntarily confessed before the competent authority in the presence of other officials and that confession was reduced into writing. The said confession was duly considered during the Summary Court Martial proceedings as well as by the Tribunal.

5. Learned counsel for the respondents further submits that during the Summary Court Martial proceedings, due opportunity was granted to the petitioner to defend himself, but he chose not to cross-examine any witness. Learned counsel for the respondents further submits that even no witness was produced in defence by the petitioner. Therefore, the grievance now

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raised after suffering the punishment is merely an afterthought intended to escape the consequences of the findings recorded in the Summary Court Martial proceedings and the punishment imposed thereunder.

6. Learned counsel for the respondents further submits that the allegations levelled against the Commanding Officer- respondent No. 4, are incorrect. It is contended that respondent No. 4 afforded due opportunity to the petitioner to defend himself, but the petitioner failed to avail the same, hence, the question of transfer of the Summary Court Martial Proceedings to any other place does not arise.

7. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

8. It may be noticed that on the complaint made by the complainant i.e. wife of an officer, alleging misbehaviour on the part of the petitioner towards her, the same allegation was admitted by the petitioner before the Commanding Officer. In order to ensure that no dispute arose thereafter, regarding the veracity of the confession, two independent witnesses were called, in whose presence the petitioner again confessed and the confession was reduced into writing. Once the said confession stood corroborated by two independent witnesses, it cannot be said that the confession was extracted. The plea now raised appears to be an afterthought intended to escape the consequences of the punishment imposed. Even otherwise, once, no cogent evidence has been brought on record to prove that the confessional statement given by the petitioner was not voluntarily made, except the bald assertion that the petitioner was asked to make the same, such plea cannot be accepted.

9. With regard to the allegation that respondent No. 4 ought to have

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disassociated himself from the Summary Court Martial proceedings, it may be observed that the mere fact that the complainant was the wife of a colleague does not make a valid ground. A Commanding Officer has all the officers posted working under him and merely because the complainant's husband was part of the same unit does not mean that any undue influence was exercised to favour the complainant.

10. Further such allegations are often raised to vitiate proceedings, however, unless a prima facie bias is shown, merely on the basis of conjectures, surmises and suspicion, the competent authority cannot be restrained from discharging its duties required to be performed as per law.

11. Another argument raised by the petitioner qua the request made by him for transfer of the Summary Court Martial proceedings to another unit is also rejected on the ground that in case any cogent evidence of bias had been proved, the authorities would have been required to consider such request. However, when such a request was based on a mere apprehension and without any cogent reason, the said request was rightly declined so as to discharge the duties in the capacity of the Commanding officer of unit under particular circumstances.

13. Further, argument raised by the petitioner that due opportunity was not afforded to the petitioner to defend himself during the Summary Court Martial proceedings due to biasness cannot be accepted as it may be noticed that none of the prosecution witness was cross-examined and no witness in defence was produced by the petitioner to defend his case. Once the petitioner had made a confession and further chose not to defend himself, later on it cannot be contended that due opportunity to defend himself was not granted.

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14. Learned counsel for the petitioner further argued that no proper assistance was provided to the petitioner during the Summary Court Martial proceedings. However, it has come on record that a friend, as requested by the petitioner, was appointed to assist him during the proceedings. Therefore, it cannot be concluded that the proceedings were conducted with a pre-meditated mind to convict him. Even otherwise, as per the settled principles of law, the disputed question of fact cannot be looked into in a criminal writ petition.

15. The next question which arises for consideration before this Court is regarding the punishment awarding rigorous imprisonment for a period of nine months and dismissal from service imposed upon the petitioner after the allegations were duly proved in the Summary Court Martial Proceedings. It may be noticed that at the time of dismissal from service the petitioner had rendered only about nine and a half years of service. *Even if the petitioner had been discharged from service on that date, rather than being dismissed from service, he would not have been entitled to pensionary benefits, as neither the minimum qualifying service of fifteen years, nor the permissible condonable service, had been completed by the petitioner and he was far short of the required period for grant of pensionary benefits.*

16. Further, prayer of the petitioner is qua converting the punishment from dismissal from service to discharge, however, it may be noticed that even if the punishment of dismissal from service is now changed into discharge from service, the petitioner will not become entitled to any other benefits except 'gratuity'.

17. *Hence, keeping in view the totality of the facts and*

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circumstances of the case as well as the charges alleged and proved against the petitioner, including his confessional statement, the same would suffice in case, the dismissal of the petitioner is converted into discharge from service from the date he was dismissed from service. In such a case, all the consequential benefits including gratuity admissible to the petitioner shall be released in his favour within the period of eight weeks from the date of receipt of certified copy of this order.

20. Further, out of the total sentence of nine months imprisonment awarded to the petitioner, he has already undergone six months of imprisonment, accordingly, the sentence of imprisonment is modified to the period already undergone by the petitioner.

21. Consequently, the present criminal writ petition is partly allowed and the order passed by the Tribunal, along with the punishment imposed, stands modified to the aforesaid extent.

22 Pending criminal miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

07.05.2026

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No