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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4005/2026 and CM APPL. 19609/2026

ASHOK KUMAR RAJPUT

.....Petitioner

Through: Mr. M.A. Niyazi, Ms. Nehmat Sethi, Ms. Anamika Ghai Niyazi, Ms. Kirti Bharadwaj, Mr. Adnan Naqash, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Ajay Kumar Pandey, SPC with Ms. Ritu Bhardwaj, GP with Ms. Aayushi Pandey, Ms. Deeksha Monga, Advs. with Major Anish Murlidhar Army.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

27.04.2026

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1. Through the present petition, *inter alia*, the Petitioner seeks to challenge the order dated 08.07.2025 (hereafter '**impugned order**') passed in OA No. 1023/2019, whereby the learned Armed Forces Tribunal dismissed the subject original application.

2. The Petitioner was enrolled in Armoured Corps in the year 1984. During the course of his service, he was awarded four red ink entries on account of absence without leave between 1985 to 1993. When the Petitioner again absented himself without leave from 01.09.1995, a Court of Inquiry was held and he was declared as a deserter on 02.10.1995. The Petitioner thereafter joined back from



14.08.1997 but again absented himself from 12.09.1997. In October, 1997, he was again declared as a deserter with effect from 12.09.1997. Apprehension roll was issued on 08.12.1997 and after being a deserter for three years, he was dismissed from service on 20.10.2000 in terms of Section 20(3) of the Army Act, 1950 read with Rule 17 of the Army Rules, 1954.

3. The Petitioner filed two writs before this Court in the year 2003 for grant of service pension and final settlement of his accounts. The said writs were dismissed for non- prosecution. In the year 2012, the Petitioner preferred separate applications to Armoured Corps Records for grant of service pension and disability pension, which were dismissed in the same year. Pursuant to the Petitioner filing an application for issue of discharge certificate on 08.12.2014, the Armoured Corps Records issued discharge certificate dated 09.02.2015.

4. In 2019, the Petitioner preferred the subject original application essentially seeking grant of disability pension and to set aside his dismissal order and discharge certificate dated 09.02.2015. By way of the impugned order, the learned Tribunal dismissed the subject original application after considering the voluntary long period of absence as well as the Petitioner's prior conduct.

5. It is the case of the Petitioner that the learned Tribunal has erred by treating his case as one of simple desertion without appreciating his psychiatric history. It is submitted that the Petitioner was erroneously dismissed from service on account of desertion without taking his mental illness into consideration and the same was done in breach of prescribed procedure without issuing any show cause notice to the Petitioner. It is further submitted that as the Petitioner was suffering



from psychiatric illness, it was incumbent on the authorities to consider medical invalidation or appropriate discharge before resorting to dismissal.

6. On the other hand, the learned counsel for the Respondents submits that the learned Tribunal has rightly dismissed the original application by appreciating the merits of the case as well as the aspect of inordinate delay. He further submits that the Petitioner was upgraded to category 'AYE' in the year 1989 itself and declared as fit for all duties. He submits that the Petitioner was a habitual offender and he was declared as a deserter after being awarded four red ink entries on account of his absence from leave.

7. Having heard the counsel and perused the record, this Court finds itself unpersuaded by the averments of the Petitioner.

8. As rightly appreciated by the learned Tribunal, the claims of the Petitioner are plagued with delay and laches. The record indicates that the Petitioner represented the applications to Armoured Corps Records for grant of service pension and disability pension respectively in the year 2012 *after twelve years* of his dismissal. Even thereafter, despite rejection of his applications in the same year itself, he failed to challenge the same before the learned Tribunal in time and preferred the Original Application belatedly in the year 2019 where he appears to have effectively challenged his dismissal order for the first time. The Petitioner cannot claim ignorance of his dismissal in the intervening period as the record indicates that he had filed a representation in the year 2000 for reinstatement and he had also filed certain writs before this Court in the year 2003 challenging denial of pensionary benefits. Furthermore, even though the impugned order was passed on 08.07.2025, the Petitioner has only filed the present



petition in March, 2026.

9. It is well-settled that once a litigant sleeps on their rights and fails to pursue their remedies in time without any sufficient cause, they cannot be allowed to belatedly agitate stale claims. Law only aids the vigilant and it cannot come to the rescue of a litigant who has exhibited such inordinate laxity. There will be no end to litigation if the Court entertains such matters.

10. It is also imperative to note that the Petitioner's absence from service after he was declared as a deserter in 1997 has not been disputed. Rather, the Petitioner has implored for a sympathetic approach to be taken after considering his psychiatric history. The record reflects that the Petitioner was initially treated for psychiatric disorder as he had explained that the reason for his overstay and absence without leave was that he was under someone's magic spell. The Petitioner was later declared as fit for all duties in the year 1989 after his psychiatric and narco analysis led the specialist to opine that the Petitioner was conscious and he was groping for some plausible reason to avoid punishment. Further, after evaluation, it was opined by the specialist that the Petitioner was lazy, lethargic and anxious. The Petitioner never contested the said findings.

11. In such circumstances, the Petitioner cannot be allowed to now take advantage of his prior categorization in the Low Medical Category, especially since he has failed to produce any other material to corroborate that he has been suffering from some mental illness. The learned Tribunal has rightly opined that in absence of any explanation for his absence and in view of the Petitioner's medical record, it is apparent that he deserted his position voluntarily.

12. It is also rightly appreciated by the Tribunal that the Petitioner



has not made out a case for converting his dismissal into discharge. Pertinently, four red entries were awarded to the Petitioner for absence without leave/ overstaying leave for the period from 20.04.1985 to 17.05.1985, 07.08.1986 to 14.09.1986, 06.05.1987 to 12.07.1987, 10.10.1992 to 23.12.1992 and 08.02.1993 to 11.05.1993 respectively. The Petitioner was also declared as a deserter in the year 1995, after which, he voluntarily rejoined service in the year 1997. Evidently, the latter two entries as well as his absence in the year 1995 pertain to the period after the Petitioner was deemed to be fit for all duties. The Petitioner was evidently a habitual offender and he was declared as a deserter twice. The learned Tribunal has rightly opined that such gross indiscipline cannot be countenanced by the Army and no leniency could be shown to the Petitioner.

13. It is also rightly noted that in terms of Rule 113 of the Pension Regulations for the Army, 1961, the Petitioner is ineligible for pensionary benefits or gratuity. While the Petitioner claims benefit of relaxation under the aforesaid rule which provides for relaxation in exceptional circumstances, as noted by the learned Tribunal, he would still not be entitled to grant of pension as he did not have the minimum qualifying service for grant of pension. As the Petitioner's dismissal was not on ground of any medical ailment, it is rightly noted that he is not entitled to disability pension either.

14. Although it is also contested that the proper procedure was not followed while dismissing the Petitioner, considering the peculiar facts of the case and that the Petitioner failed to challenge his dismissal for around nineteen years, this Court is not inclined to exercise its extraordinary jurisdiction and interfere in the present case.

15. The present petition is dismissed in the aforesaid terms. Pending



application also stands disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 27, 2026