

(2025) 08 J&K CK 0366
In the Jammu And Kashmir High Court
Case No : WP(C) No.2123 Of 2024

Daljeet Singh

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 29-08-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 08 J&K CK 0366

Hon'ble Judges : Rajesh Sekhri, J; Sindhu Sharma, J

Bench : Division Bench

Advocate : Danish Butt, Sumant Sudan, Vishal Sharma

Final Decision : Dismissed

Judgement

Sindhu Sharma, J

1. The petitioner has invoked the writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, seeking quashment of the order dated 17.10.2023 passed by the Armed Forces Tribunal, Regional Bench, Srinagar at Jammu (hereinafter referred to as "the Tribunal") in O.A. No. 197/2023, whereby the said original application filed by the petitioner was dismissed. The petitioner further seeks quashment of the discharge order dated 20.07.2021, issued by respondent No. 5, and a consequential direction to the respondents to reinstate him into service with all attendant benefits, in the interest of justice and equity.

2. Briefly stated the facts arising in this petition are that the petitioner was enrolled in the Indian Army as a Recruit on 01.05.2021, after being found physically and medically fit for military service. Upon enrolment, the petitioner was deputed for training at the Punjab Regiment Centre, Ramgarh Cantt. During the course of training, the petitioner reportedly developed a sudden headache and related health issues. He sought medical attention and requested the Platoon Commander and the concerned NCO to refer him to the MI Room or Military Hospital for medical checkup. It is submitted that the respondents declined his

request and instead of addressing the medical condition, the petitioner was coerced to sign a document and his signatures were taken on a document seeking his resignation from service.

3. The petitioner remained at the training centre till 20.07.2021. These facts were intimated by his father, who visited the training centre and raised serious concerns about the treatment meted to the petitioner. The respondents discharged the petitioner on 20.07.2021. The respondents despite the efforts of the petitioner did not take him back to service. After his discharge, the petitioner submitted a representation seeking reinstatement through the Zila Sainik Welfare Office on 29.07.2021 but the same was declined by the competent authority vide communication dated 25.08.2021 on the ground that there exists no provision for reinstatement into service.

4. The petitioner, aggrieved of the denial of his reinstatement, filed O.A. No.197/2023 before the learned Tribunal. This original application was dismissed by the Tribunal vide order dated 17.10.2023, by holding as under:-

"There is nothing on record to indicate that the voluntary discharge sought by the applicant was coerced. Under the circumstances, refusal of request for reinstatement cannot be faulted. Reliance upon Regulation 142 (supra) is misplaced, as the said Regulation pertains to 'ex-servicemen'. Such personnel can seek re-enrolment post discharge subject to certain conditions specified therein. The applicant is not ex-serviceman as he was not even affected. It may be noted that vide letter dated 25th August, 2021 the respondents have permitted the applicant to seek re-enrolment in a subsequent recruitment. No ground for interference is made out and thus, for the reasons mentioned herein above, the OA is dismissed."

5. Feeling aggrieved by the dismissal order dated 17.10.2023, the same has been assailed on the ground that the same suffers from legal infirmities and non-application of mind. It is submitted that the Tribunal has failed to appreciate that the petitioner's discharge from service was without providing him any procedural safeguard. It was neither preceded by any interview nor counseling by the Commanding Officer or other competent authority. The discharge was effected without recording any satisfaction to show that the resignation was voluntary, thereby violating the principles of natural justice and the due process of law.

6. It is further submitted that the Tribunal has failed to consider the mandatory provisions of Army Rule 13(3), Item IV, which require that the Commanding Officer must be satisfied as to the desirability of accepting the application for discharge. The entire process culminating in his discharge was completed within an unusually short span which casts a shadow of doubt. The Tribunal neither addressed the specific plea of coercion raised by the petitioner nor called for objections or the relevant record from the respondents prior to dismissing the original application.

7. The respondents, in their objections, have submitted that this petition is not

maintainable on the ground that the petitioner was discharged from service at his own request and after his discharge, he cannot be reinstated into service as no such provision exists to reinstate an individual after final discharge from Army service. The petitioner, however, could apply afresh for any recruitment rally if he wants enrollment in Armed Forces.

8. The respondents have further submitted that though under Army Rule 11(2), discharge may be cancelled with the consent of the individual and approval of a superior authority. However, the petitioner's discharge was processed lawfully, and he had not yet attained the status of an attested soldier, which is a prerequisite for claiming re-enrollment and also his case does not fall within the category of 'ex-servicemen' eligible for re-enrollment. The Tribunal, after considering the material before it, rightly concluded that there was no evidence of coercion or procedural irregularity. The impugned discharge order, according to the respondents, is therefore legally sustainable and the relief sought by the petitioner is misconceived.

10. Heard learned counsel for the parties and perused the record.

11. The petitioner was enrolled under the Unit Headquarters Quota and reported to the Punjab Regimental Centre on 01.05.2021. He joined the YS-170 Course with Aurora Training Company on 05.07.2021. During training, the petitioner submitted a written request for premature discharge, citing physical inability to complete the training regimen. The Training Battalion Commander considered the request and sanctioned premature discharge on compassionate grounds.

12. The petitioner has submitted an affidavit dated 05.07.2021, duly sworn and notarized, wherein he categorically declared his lack of interest in pursuing a military career. He has affirmed that the decision was taken of his own volition and that he would not seek cancellation of the discharge or raise any grievance in the future. The petitioner was advised about the implications of his discharge, but despite counseling efforts, he remained firm in his decision. Accordingly, after approval by the competent authority, he was discharged on 20.07.2021 under Army Rule 13(3), Item IV.

13. The only issue that arises for consideration is whether the discharge of the petitioner from service on 20.07.2021 was coerced and procedurally flawed, thereby warranting judicial interference.

14. The grievance of the petitioner primarily rests on the ground that he was forced to resign while undergoing basic military training, without being afforded an opportunity of counseling or procedural safeguards under Army Rule 13(3), Item IV.

15. A careful perusal of the material placed on record reveals that the petitioner was an un-attested recruit undergoing basic training at the relevant point of time. The affidavit dated 05.07.2021, which is duly notarized and uncontroverted, clearly indicates that the petitioner voluntarily opted to

discontinue military service, fully aware of the consequences. It is also stated by him that due to personal reason, he is not eager to pursue his carrier in Army. The petitioner was thereafter discharged on 20.07.2021, and his representation seeking reinstatement was duly considered and rejected by the competent authority on 25.08.2021.

16. The plea of coercion does not hold ground in view of the written affidavit voluntarily given by the petitioner. The representation of the petitioner through the Zila Sainik Welfare Office was duly replied to vide letter dated 25.08.2021, stating that there is no provision for reinstatement, although he was at liberty to apply afresh in future recruitment.

17. In the present case, there is no violation of Army Rule 13(3) or any other statutory provision. The discharge of the petitioner, thus, was duly sanctioned by the competent authority upon receipt of a written and sworn request from the petitioner. The records do not indicate any procedural irregularity or denial of opportunity. The plea of the petitioner as regards coercion is unsupported by any credible evidence. The Tribunal has rightly found that the petitioner does not qualify as an 'ex-serviceman' eligible for re-enrolment under Regulation 142. Therefore, this Court finds no ground to interfere with the impugned order passed by the Tribunal.

18. In view of the aforesaid facts and circumstances, we find no ground to interfere with the impugned order. This writ petition is found to be devoid of merit and the same is, accordingly, dismissed.