
(1998) 02 RAJ CK 0060
In the Rajasthan High Court
Case No : Civil Writ Petition No. 47 of 1998

J.I. Siddiqui

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-02-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 1 RLW 598 : (1998) 3 WLC 183 : (1998) 1 WLN 140

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Yadav, J.—The present writ petition has been filed by the petitioner for quashing the sentence of punishment awarded to him in a summary Court Martial.

2. It is borne out from the record that the petitioner went to Allahabad to appear in Commissioning Examination with 18th Service Selection Board on 20.7.1997. He was to return to his Unit on disciplinary ground because Col. Gulati had informed 18th Service Selection Board that the petitioner had tried to offer him Rs. 7,000/- as bribe in the form of Demand Draft to help the petitioner in the said examination. It is revealed from the record that consequent upon the order given by the Officiating Administrative Officer, Selection Centre East, Allahabad the petitioner NCO was to return to his Unit without being allowed to go through selection process.

3. It is stated in the communication order dated 22.11.1996 Annex. 1 to the writ petition that severe disciplinary action be initiated against the petitioner NCO and a record of his behaviour be placed in his record of service. It was also suggested that various formations be informed of the incident and asked to ensure that such individuals, who obviously have unethical traits in their personality are not recommended for any kind of commission.

4. In pursuant of Annex. 1, Charge-sheet Annx. 2 was served upon the petitioner and after following the procedure as envisaged under Clause (c) of Sub-rule (3) of Rule 22 of the Army Rules, 1954, a summary Court Martial was held. Evidence was recorded. The petitioner was given opportunity to cross-examine one witness. It is alleged that the petitioner raised many questions regarding procedural irregularity adopted in holding summary Court Martial proceedings but the said proceedings have not been filed by the petitioner along with the writ petition, therefore, it is not possible for the Court to address these irregularities.

5. I am of the view that in rarest of rare occasion, the general court martial proceedings or summary court martial proceedings can be questioned under Article 226 of the Constitution of India that too on recognised grounds of violation of principles of natural justice or where it is found that punishment has been awarded to an Army-man in either of the proceedings on non-existent ground or grounds. The extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India can not be allowed to be made conterminous with appeal and revisions.

6. Looking into the unethical charges levelled against the petitioner, I am not inclined to make the punishment awarded to the petitioner to be ineffective by issuing a discretionary writ of certiorari.

7. The petitioner has made serious allegations of mala fide against Col. A.K. Gulati without impleading him as party in the writ petition. The reckless mala fide allegations made against Col. A.K. Gulati by the petitioner are deprecated.

8. As a result of the aforesaid discussion, the instant writ petition is hereby dismissed summarily at admission stage.