

(2015) 10 TP CK 0022
In the Tripura High Court
Case No : W.P.(C) No. 278 of 2012

Rajib Hossen

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 14-10-2015

Acts Referred:

Citation : (2015) 10 TP CK 0022

Hon'ble Judges : Deepak Gupta, C.J. and S.C. Das, J.

Bench : Division Bench

Advocate : A. Bhowmik, Advocate, for the Appellant; A. Roy Barman, CGC, for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J.

1. By means of this petition the petitioner who was enrolled as a Rifleman in the Assam Rifles has challenged the order whereby he has been released/discharged from the Assam Rifles purportedly on his own request.

2. The case of the petitioner is that he had never made a request for discharge from the Assam Rifles. According to the petitioner he was charged with having committed civil offence of causing grievous hurt to another Rifleman on 28th June, 2011 and thereafter he was punished with 28 days of R.I. in A.R. custody and to pay fine. According to the petitioner on 1st August 2011 discharge certificate was issued to the petitioner, discharging him from service w.e.f. 31st October 2011. On 3rd November, 2011 the petitioner submitted a representation to the commandant praying for mercy and making a prayer that he may not be discharged from service. Thereafter on 24th January, 2012 Legal notice was issued and finally the petitioner approached this Court by filing this writ petition.

3. The case of the respondents is that this is not a case of discharge of the petitioner by way of punishment etc. According to the respondents the petitioner has been discharged on his own request. It was submitted that the petitioner

himself had made a request for his discharge and keeping that request in view he has been discharged and this discharge has nothing to do with the punishment inflicted upon him.

4. To verify the submissions of the respondents we had asked the respondents to produce the original record. From the record we find that on 6th June, 2011 the petitioner Rajib Hossen, No. G/3600888N, Rifleman, submitted an application which reads as follows:-

"Sir,

1. With due respect and humble submission. I beg to lay down the following few lines for your consideration and kind action please.

2. Sir, I joined in Assam Rifles on 11 Jan 2002 and now have completed 09 Years 04 Month Service on 07 June, 2011.

3. Sir, now I am unable to do continue further service due to I have been facing many problems at home because I am only one son of my father no any other member in my family to look after my aged parents and properties except my wife. So my attendance at home is highly necessary at this stage.

4. I therefore request your kind honor to sanction my discharge application.

5. Thanking you sir."

5. The application clearly shows that the petitioner made a request to be discharged from Assam Rifles on the ground that he is the only son of his father and since there is no other member in his family to look after his father he may be discharged from the service. There is another application also in the record which is dated 10th June 2011 and that also bears the signature of the petitioner in original. That application is also on similar lines in which it is mentioned that the presence of the petitioner is required at his native place and therefore, he may be discharged without pensionary benefits. The second typed application has been addressed to the Director General of the Assam Rifles and this has been recommended by the Commandant of the Assam Rifles on 10th June 2011 itself.

6. In the mean time, a meeting of the Quarterly Standing Committee was convened to examine the case of the petitioner for his discharge on voluntary/premature retirement before completion of pensionable service. This committee met on 15th June 2011. The Committee considered the applications of various persons including the application of the petitioner for discharge from service at his own request despite the fact that he had not completed 20 years of service and would not, therefore, be entitled to pension. The Quarterly Committee found that no undue pressure had been exercised over the individual who had applied for voluntary/premature retirement and he had done so of his own volition due to his domestic problems. Therefore, the Committee had recommended the discharge of the petitioner from service and this recommendation was accepted

by the Commandant who also recommended that the petitioner be discharged from service at his own request.

7. Thereafter the Commandant of the unit issued a certificate in this regard on 15th June, 2011 itself and the petitioner was accordingly discharged from service on 31st October, 2011. The incident for which the petitioner was punished took place on 28th June, 2011 i.e. much after the approval of the request of the petitioner for discharge from service on voluntary grounds. It is more than obvious that this incident had nothing to do with the request which had already been made prior to the incident taking place.

8. Therefore, we have no hesitation to come to the conclusion that the petitioner had made a voluntary request for discharge prior to completion of his 20 years of service. We are also clear that the discharge has been ordered on the basis of recommendation made by the Commandant and, therefore, we find no error in the same.

9. The Writ petition is accordingly dismissed.

10. No order as to costs.