

(2022) 03 AFT CK 0003
In the Armed Forces Tribunal
Case No : OA 249 Of 2022

Sgt Narender Kumar

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 04-03-2022

Acts Referred:

Constitution of Indian, 1950 — Article 12

Citation : (2022) 03 AFT CK 0003

Hon'ble Judges : Rajendra Menon, Chairperson, (J); P.M. Hariz, Member (A)

Bench : Division Bench

Advocate : Ajit Kakkar, Suman Chauhan

Final Decision : Disposed Of

Judgement

1. Seeking premature discharge from service on extreme compassionate grounds the applicant, a serving officer in the Indian Air Force (a Sergeant) has invoked the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 and the reliefs claimed in para 8 read as under:

“(a) To direct the respondents to grant premature discharge from Service to the applicant.

(b) To set aside the rejection of an interview dated 08 Feb 2022.

(c) To direct the respondents to grant interview to explain his circumstances for discharge from service.”

2. Even though the applicant has sought for a direction to grant him premature discharge but at the time of hearing of the matter the applicant's counsel made a fair statement to say that for the present the applicant would be satisfied if the order dated 8th February, 2022 rejecting his prayer for interview and interaction with the Competent Authority is set aside and the respondents are directed to grant an interview to the applicant with the Competent Authority so that he can explain the circumstances and situation based on which he is seeking discharge

from service.

3. On the last date we had requested the respondents' counsel to seek instructions and inform us as to whether grant of interview would be permissible. We are informed that the Competent Authority having already rejected the prayer for grant of interview, now, as the prayer of the applicant for discharge is devoid of merit, no indulgence is called for.

4. Having considered the contentions advanced and on going through the record, we find that the applicant has indicated various circumstances based on which he is seeking the discharge. The limited prayer made now before us is to grant him interview with the Competent Authority where he can explain the circumstances and thereafter the Competent Authority can very well take a decision in accordance with law. We find this prayer to be innocuous and there should not be any difficulty in the Competent Authority hearing the applicant, an employee of the Force, evaluate his difficulties and thereafter take a decision as may be permissible in law, the statutory rules and instructions and the policies applicable to the respondent establishment. Granting of an interview, in our considered view, is a reasonable prayer made by an employee and an employer, which is a State meeting the requirement of Article 12 of the Constitution, should fairly grant an opportunity of hearing or an interview.

5. Taking note of the circumstances aforesaid, we allow this petition and issue the following directions:

(i) Without expressing any opinion on the merit of the grievance made by the applicant in this petition including the question of his discharge on merit, we direct the respondents to arrange for an interview of the applicant with the Competent Authority within a period of one week from the date of receipt of a copy of this order.

(ii) The Competent Authority may hear the applicant and thereafter take a decision with regard to his claim for premature discharge in accordance to the policies, rules and regulations in vogue and pass an appropriate order.

6. We may clarify that we have not expressed any opinion on the merit of the issues canvassed in this petition and we leave it to the Competent Authority to take a decision in accordance to its discretion based on the material that may come on record after the interview or the material which is already available on record.

7. Needless to emphasise that if still aggrieved by the decision taken by the Competent Authority, the applicant will have the liberty to assail the same afresh in accordance with law. With the aforesaid we dispose of this OA.

DASTI