
(2014) 07 P&H CK 0353
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 4294 of 2014

Surinder Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0353

Hon'ble Judges : Hemant Gupta, J; Fateh Deep Singh, J

Bench : Division Bench

Advocate : Onkar Singh, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to an order passed by the Armed Forces Tribunal, Chandigarh Regional Bench at Chandimandir (for short "the Tribunal") on 21.11.2013 whereby an appeal arising out of a civil suit challenging the discharge of the petitioner and transferred to the Tribunal remained unsuccessful.

2. The petitioner was enrolled in the Army on 20.06.1989. He was posted at 14 Dogra Regiment at Jalandhar in the month of July, 2001. He was detailed for duty in the Unit Officer's Mess on 17.07.2001. The petitioner submitted request for discharge on 18.07.2001 and accepting the request, the petitioner was discharged on 24.07.2001.

3. The father of the petitioner filed a complaint on 06.09.2001 that petitioner has been discharged illegally on the basis of documents on which signatures of his son were obtained on blank papers. Since, the petitioner was discharged on his own request, no action was taken but petitioner challenged the order of discharge before this Court in a writ petition filed in the month of March, 2003. Such writ petition was withdrawn on 28.03.2003 with liberty to file a civil suit. Thereafter, the petitioner filed a civil suit in the month of February, 2004 which was dismissed by learned trial Court vide order dated 14.12.2009 (Annexure

P-8). During the pendency of appeal, Armed Forces Tribunal Act, 2007 came into force and consequently the appeal was transferred to the Tribunal. It is the said Transfer Petition, which has remained unsuccessful.

4. The assertion of the petitioner is that he has not signed any request for discharge. In fact, he was made to sign on blank papers and on his refusal he was given beatings. It was alleged that on 17.07.2001 an incident has taken place when 6 year old daughter of the Commanding Officer came to the Officers Mess and identified the plaintiff as a person who probably misbehaved with her.

5. The learned Tribunal returned a finding that from the statement of the plaintiff, some incident is attributed to him and he is said to have been compelled to sign on blank papers but the plaintiff did not examine any witness from the Unit where he was serving to prove that his signatures were taken on a blank paper. It was also found that plaintiff never made any complaint to his superiors that he has been compelled to give signatures on a blank paper. The earliest complaint is on 06.09.2001 by father of the petitioner. The complaint by the father cannot be treated as a complaint on behalf of the petitioner as the allegation is that he was forced to sign on the blank papers. Such allegations are of facts which are in his personal knowledge alone. It has been also found that petitioner has not produced any evidence or material to show as to what enmity the Commanding Officer had against him.

6. We have heard learned counsel for the petitioner and find no merit in the present writ petition. After making the alleged complaint on 06.09.2001 by the father of the petitioner, the petitioner made a grievance in respect of his discharge only in the month of February, 2003 i.e. after more than 18 months. Still further, the petitioner had approached the Civil Court after about more than 29 months. If force was applied on the petitioner to submit request for discharge, the petitioner would have taken immediate steps pointing out such action. However, the conduct of the petitioner after the order of discharge shows that it was voluntary and probably for the reason that he was cornered and could face severe action, therefore, he submitted his request for discharge from Army.

7. We do not find any reason to interfere with the order of the Tribunal in the writ jurisdiction of this Court.

8. Dismissed.