

**ARMED FORCES TRIBUNAL CHANDIGARH BENCH AT  
CHANDIMANDIR**

**T.A. No. 215 of 2009  
(arising out of CWP No.15381 of 2009)**

**Baljit Singh**

**..... Petitioner**

**Vs.**

**UO.I & ors.**

**..... Respondents**

**ORDER  
11-5-2010**

**CORAM:           Justice N.P.Gupta, Judicial Member.  
                      Lt Gen A.S. Bahia (Retd), Administrative Member.**

For the applicant (s) :       Mr. R.K. Sharma, Advocate.

For the respondent (s) :     Ms.Ranjana Shahi, Senior Panel Counsel

**Justice N.P.Gupta:**

The matter comes up for final hearing.

Learned counsel for the respondents prays for time to file reply. But in view of the fact that sufficient number of adjournments have been granted in the past, still in the interest of justice, we feel inclined to grant an adjournment subject to payment of costs. However, the learned counsel for the respondents submits that in that event, she would not like to file any reply and argue the matter on merits.

In that view of the matter, we have heard the matter.

This matter has been received on transfer from the Punjab and Haryana High Court, where the petitioner filed the writ petition on

5-10-2009 praying for issuance of a direction to the respondents to allow the petitioner to join service.

Necessary facts, as given in the writ petition, are that the petitioner joined with respondent No.2 in February 2004, then took training and joined the service in the rank of Sepoy on 26-10-2004. While working, he availed two months' leave after getting it sanctioned and had to join duty in the unit at Mount Abu (Rajasthan) on 1-03-2008 which he failed to join. According to the petitioner, he failed to join the duty because of his illness and he received a letter on 15-03-2008 from the Police Station Sadar, Ropar, for joining the duty, but since he was not well, he could not join. Then after recovery, when the petitioner went to join the unit at Mount Abu on 5-4-2008, the outdoor security of the unit did not allow the petitioner to enter and then he was informed by Subedar Major that his papers have been sent to the Central Office, Fatehgarh and he should report there. But when he approached the concerned authority there, he was told that his papers have not been received, and he had to report at Mount Abu. Thus, he was not allowed to resume his duties either at Fatehgarh (U.P.) or at Mount Abu. Then he made a representation on 10-05-2008, and when he did not receive any response to it, he also sent a reminder on 23-12-2008, but no response was given by the respondents.

Since no reply has been filed to the writ petition, the factual aspect of the matter about the petitioner having gone to report for duty, and having not been allowed to join duty, and submitting a representation with no response have to be believed to be correct.

The fact does remain that during course of hearing, it was not informed to us by the respondents, as to whether any Court Martial has been conducted against the petitioner, or any disciplinary action has been taken.

In that view of the matter, in our view, until and unless other requisite steps have been taken after expiry of prescribed time by the authority concerned, the petitioner could not be refused to join the duty. It is different aspect of the matter that consequences, which may flow on account of the petitioner not joining the duty, might flow in accordance with law.

In that view of the matter, this petition is allowed, and the respondents are directed to allow the petitioner to join duty. The respondents shall be at liberty to take permissible action against the petitioner. The petitioner should now report for duty at Sikhilai Centre, Fatehgarh on or before 11-06-2010.

**(Justice N.P. Gupta)**

**(Lt Gen A S Bahia (Retd))**

**11-05-2010**  
**'dls'**