

ARMED FORCES TRIBUNAL, REGIONAL BENCH, CHENNAI

M.A.No.59 of 2013  
and  
O.A.No.57 of 2013

Tuesday, the 8<sup>th</sup> day of October 2013

THE HONOURABLE JUSTICE V. PERIYA KARUPPIAH  
(MEMBER-JUDICIAL)  
AND  
THE HONOURABLE LT GEN ANAND MOHAN VERMA  
(MEMBER – ADMINISTRATIVE)

Rank-Ex-Sapper, Name-M.D.Jabeer  
Service No.15334339-L  
S/o Late M.D. Yousub,  
aged about 29 years  
House No.10-114, Hanuman Nagar  
Village & Post-Indervelly  
District-Adilabad  
Andhra Pradesh  
Pin-504 346.

.. Applicant/Applicant

By Legal Practitioner:  
M/s. M.K. Sikdar  
and S.Biju

vs.

1. The Commanding Officer  
Depot Battalion, MEG & Centre  
Pin-900 493, C/o 56 APO.

2. The Commanding Officer  
No.1, Armed Engineer Regiment  
Pin-914001, C/o 56 APO

..Respondents/Respondents

By Mr. B.Shantakumar, SPC

**ORDER**

(Order of the Tribunal made by  
Hon'ble Lt Gen Anand Mohan Verma,  
Member-Administrative)

1. This M.A. has been filed to condone the delay of 1552 days in filing the O.A.

2. The petitioner was discharged from service on 31<sup>st</sup> August 2008. The petitioner would claim that he was discharged under coercion/undue influence/threatening and was en-marked as a "Naxalite" and was treated as war prisoner with severe physical and mental torture. He would submit that consequent to his discharge, he applied on 17<sup>th</sup> December 2012 under RTI Act to know the reasons for his punishment and discharge from service which was replied to by the respondents. He would explain the reasons for delay in filing the Original Application by stating that he is financially poor and lives in Northern District of Andhra Pradesh and therefore, took some time to approach the counsel at Chennai. During the hearing, the counsel for the petitioner Mr.M.K. Sikdar would produce a medical certificate to support his claim that the petitioner was unwell and could not approach the Tribunal and would request that the delay be condoned.

3. The respondents would submit that the present application is barred by law of limitation and would quote the judgment of Lucknow Bench of Armed Forces Tribunal in the case of **Ex Hav Ram Bahadur Prasad vs.**

**UOI in O.A.No.Nil (1)/2011** to support their claim. The respondents would submit that this case as also two other cases were dismissed on the grounds of delays and laches and therefore, this M.A. in O.A. is not maintainable and request that the same be dismissed.

4. A perusal of the documents reveals that the petitioner was enrolled on 16<sup>th</sup> January 2004 and was discharged from service on 31<sup>st</sup> August 2008. The authority for discharge is not mentioned in the Discharge Book. However, the respondents in response to RTI application have stated vide their letter dated 2<sup>nd</sup> January 2013 that the petitioner was discharged from the service under Army Rule 13(3) III (iv) that is at his own request. We have also perused the application from the petitioner dated 16<sup>th</sup> June 2008 addressed to OIC Records, MEG Centre, Bangalore in which he has requested for discharge from service immediately.

5. The petitioner has produced a medical certificate from Dr.Pankaj Roy B.A.M.S., M.D. of Matruchaya Hospital in Indervelly, District Adilabad, according to which the petitioner was admitted in that hospital on 3<sup>rd</sup> September 2008 and was discharged on 10<sup>th</sup> September 2008. The case sheet mentions the symptoms. The medical documents also include a certificate signed by the same doctor, dated 6<sup>th</sup> September 2013 in which it has been stated that the petitioner was under his treatment from 3<sup>rd</sup> September 2008 onwards for 8 to 10 months for excessive body pain, fever and blackish spots on his body. The application has been filed on

30<sup>th</sup> September 2013. Even after giving allowance for the period of illness for a period of 8 to 10 months, the petitioner has failed to explain the inordinate delay in filing this Original Application except to say that he is financially poor and lives in Northern District of Andhra Pradesh.

6. We are not satisfied with the reasons given by the petitioner to explain the delay in filing this application and are inclined to dismiss it. Accordingly, the Miscellaneous Application is dismissed and consequently, the main O.A.No.57 of 2013 is also dismissed.

Sd/  
LT GEN ANAND MOHAN VERMA  
MEMBER (ADMINISTRATIVE)

Sd/  
JUSTICE V. PERIYA KARUPPIAH  
MEMBER (JUDICIAL)

**08.10.2013**  
**(True copy)**

Member (J) – Index : Yes / No  
Member (A) – Index : Yes / No

Internet : Yes / No  
Internet : Yes / No

*VS*

To:

1. The Commanding Officer  
Depot Battalion, MEG & Centre  
Pin-900 493, C/o 56 APO.

2. The Commanding Officer  
No.1, Armed Engineer Regiment  
Pin-914001, C/o 56 APO

3. M/s. Sikdar & Biju  
Counsel for applicant.

4. Mr. B. Shanthakumar, SPC  
Counsel for respondents.

5. OIC, ATNK & K Area HQ, Chennai.

6. Library, AFT, Chennai.

HON'BLE JUSTICE V. PERIYA KARUPPIAH  
(MEMBER-JUDICIAL)  
AND  
HON'BLE LT GEN ANAND MOHAN VERMA  
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Dt: 08.10.2013