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Sub Maj Dan Singh Vs. Uoi and Others

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Court : Armed forces Tribunal AFT Principal Bench New Delhi

Decided On : May-06-2014

Judge : Sunil Hali, Member &Amp; the Honourable Mr. Lt. Gen. Sanjiv Langer, Member

Appeal No. : OA. No. 119 of 2011

Appellant : Sub Maj Dan Singh

Respondent : Uoi and Others

Judgement :

Short grievance of the petitioner is that he was convicted by the GCM and punishment of dismissal was awarded with one years R.I. Being aggrieved, an appeal was filed before this Tribunal, being T.A. No. 726 of 2009, which was allowed, vide order dated 23.09.2009 and conviction of the petitioner was set aside. A direction was issued that the petitioner shall be deemed to have been discharged from service from the date of dismissal. The order stands complied with by the respondents.

It is contended by the learned counsel for the petitioner that the only impediment in the way of the petitioner for grant of Honorary Commission was the conviction recorded by the GCM. The order of conviction having been set aside, therefore, he has a right to be considered for grant of honorary commission after his retirement.

On the other hand, the stand of the respondents is that the petitioner has not completed the tenure of his service as he was deemed to have been discharged w.e.f. 28.05.1999 whereas the term of his engagement was to come to an end on 30.09.1999. In this behalf, learned counsel for the respondents has placed reliance on a policy dated 20 August, 1982 and submitted that since in terms of para-2 of the policy, the petitioner has not completed his tenure of engagement, therefore, he is not entitled to grant of Honorary Commission.

We have heard learned counsel for the parties.

Para-2 of the policy contemplates that a Subedar Major of the Regular Army including those of Defence Security Corps will only be considered for grant of honorary commission on the active list in the last year of his colour service (in two chances). This by itself does not reflect that a Subedar Major is required to complete his tenure of engagement. All that it contemplates is that he is required to be considered twice in the last year of his colour service.

Admittedly, the petitioner has been discharged four months prior to the date of his actual date of discharge. However, since the policy does not contemplate of any such eventuality that for grant of Honorary Commission, an incumbent is required to complete his term of engagement, therefore, the contention of the learned counsel for the respondents that the petitioner cannot be considered for grant of Honorary Commission as he has not completed the tenure of his engagement, cannot be accepted.

In view of the above, we direct the respondents to consider the case of the petitioner for grant of Honorary Commission, provided he is otherwise found eligible, within a period of two months from today.

With the above direction, the petition stands finally disposed off.

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