



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE**

**HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VINAY SARAF

WRIT PETITION No. 37681 OF 2025

RAMESH RAMBHAU INGLE

Versus

THE UNION OF INDIA AND OTHERS

Appearance:

Shri K.C. Ghildiyal – Senior Advocate with Ms. Wariza Ghidilyal – Advocate for the petitioner.

Shri Suyash Mohan Guru - Deputy Solicitor General for the respondent/ Union of India.

**Reserved on - 17.11.2025
Pronounced on – 26.11.2025**

Per. Hon'ble Shri Vinay Saraf, J.

1. The petitioner has approached this Court by way of instant writ petition filed under Article 226 of the Constitution of India challenging the legality and validity of order dated 27.03.1999 passed by the Commanding Officer, 3 Administrative and Training Regiment and order dated 23.09.2024 passed by Armed Forces Tribunal, by which the order dated 27.03.1999 has been maintained.



2. Heard Shri K.C. Ghildiyal, Senior Advocate with Ms. Wariza Ghildiyal on the question of admission.

3. The facts not challenged by the petitioner are that on account of overstay of leave petitioner was apprehended by civil police on 14.01.1999 and produced before the 3 Administrative and Training Regiment, Army Centre Nasik. A charge sheet was served to the petitioner. Statement of witnesses were recorded 11.03.1999. The charge was that he was granted leave of absence from 07.09.1998 to 21.09.1998 to proceed to his home and granted extension from 22.09.1998 to 01.10.1998 and without sufficient cause failed to re-join at field on 02.10.1998 on the expiry of the said leave till apprehended by civil police on 14.01.1999. Thus, he has committed an offence punishable under Section 39(b) of the Army Act, 1950.

4. Summary court martial proceedings were initiated against the petitioner and the trial commenced on 27.03.1999, when the charge sheet was read over to the petitioner/accused and the petitioner accepted the guilt of overstaying without any sanctioned leave. The plea of guilty to the charge was recorded after explaining the meaning of the charge to the petitioner and proceedings on a plea of guilty was carried out. When opportunity of hearing was granted to the petitioner to make any statement, he replied that he does not wish to make any statement however, requested for consideration in punishment. Similarly, he did not call any witness in his favour. The Court considered the past entries of default and passed the sentenced of dismissal from the service. The said order was challenged by the petitioner in OA No.49/2022 before the Armed Forces Tribunal, Regional Bench, Jabalpur which was dismissed by impugned order dated 23.09.2024.



5. Learned senior counsel appearing on behalf of the petitioner submits that imposition of sentence of dismissal by the Commanding Officer (the Court) is absolutely illegal, arbitrary and contrary to the statutory provisions. He further submits that it was not considered by the court that as the petitioner fell ill he could not rejoin the Unit on expiry of leave and in the meanwhile he was arrested by civil police and handed over to 36 Medium Regiment, Aurangabad from where he was brought to the Artillery Training Centre, Nasik and held in 3 Administrative Regiment. He further submits that the Commanding Officer of 3 Adam Regiment was not commanding officer of the petitioner and no proper order was issued to attend the petitioner in 3 Administrative Regiment. He submits that the proceedings were initiated at 9:00 hours and finished at 9:30 hours and no proper opportunity of hearing was granted to the petitioner and the petitioner was awarded the punishment of dismissal from service which is extreme and hard penalty. He further submits that as the proceedings were held in the violation of principles of natural justice and the punishment is disproportionate to the alleged offence, the order passed by SCM as well as Armed Forces Tribunal are liable to be quashed. Learned senior counsel appearing for the petitioner further submits that the petitioner completed the service of 14 years 5 months and 16 days at the time of awarding the sentence and therefore, short fall of the pensionable service be condoned. In alternate, he prays for condonation of the short fall period. He submits that petitioner had overstayed the leave due the reasons beyond his control and the disciplinary action against the petitioner was unwarranted.



6. Shri Suyash Mohan Guru, Deputy Solicitor General appeared on behalf of the respondent/Union of India on advance copy, supported the proceedings of summary court martial. He submits that earlier on three occasions the petitioner was punished under Section 39(b) of Army Act with the sentence of 28 days RI,, 14 days pay fine, 28 days RI and 14 days detention in military custody and thereafter once again he has been found guilty of the offence punishable under Section 39(b) of the Army Act and therefore, court has not committed any error in sentencing the dismissal from the service considering the past record of the petitioner. He further supported the order passed by the Armed Forces Tribunal and submits that the order is based on due appreciation of facts and circumstances of the case as well as legal provisions. He prays for dismissal of the petition.

7. After consideration of the arguments advanced by the counsel for the rival parties, it appears that the petitioner was posted with 150 Field Regiment and has been granted leave of absence from 07.09.1998 to 21.09.1998 and upon his request the leave was extended upto 01.10.1998, however petitioner failed to join the field on 02.10.1998, therefore, the regiment had issued apprehension role in respect of the petitioner thereafter he was arrested by the civil police and handed over the 36 Medium Regiment at Aurangabad from where he was brought to Artillery Centre, Nasik and kept with the 3 Administrative Regiment. He was served with a charge sheet under Army Act Section 39(b) for overstaying the leave without sufficient cause and thereafter tried by SCM on 27.03.1999. During the course of hearing, the petitioner accepted the guilty to the charge and



the court after considering the past record of petitioner sentenced him to dismissal from the services.

8. The order passed by the SCM was challenged by the petitioner before the Armed Forces Tribunal in the year 2019 and after condonation of delay the misc. application was registered as original application. However, the petitioner failed to explain the reason of overstayal of leave. He simply stated that due to illness he could not join the field on 02.10.1998 but not a single document in support of his submission was filed either before SCM or before Armed Forces Tribunal and even before this Court. In the absence of any material on record, the defence raised by the petitioner that due to illness he could not join the field cannot be accepted. Petitioner has repeated the similar offence of overstaying which is a serious matter in the Army. The petitioner was awarded minor punishments earlier, however, he repeated the offence and flouted the Army Rules which is a well disciplined organization. Considering the fact that earlier also the petitioner committed the similar offence and no documentary material submitted by the petitioner to demonstrate that the reason for overstayal was beyond his control, the decision of army authorities to discharge the petitioner from service is just, fair and as per the provisions of Army Act and Rules made thereunder. When the petitioner remained absent on 02.10.1998, apprehension role was issued, however, neither the petitioner could be apprehended nor he joined the Unit, therefore, after completion of the 30 days of the absence of the petitioner a court of enquiry was held on 15.11.1998 at 150 Field Regiment in accordance with Section 106 of Army Act to investigate the absence of the petitioner and declared him as deserter



w.e.f. 02.10.1998. Later on petitioner was apprehended by civil police on 14.01.1999 and produced before the authorities. However, keeping in view gravity of offence committed by the petitioner and his previous service record the petitioner was tried by summary court martial at 3 Administrative and Training Regiment Artillery Centre, Nasik Road camp for the offence punishable under Section 39(b) of Army Act and sentenced to be dismissed from service w.e.f. 27.03.1998.

9. The petitioner filed the original application before the Armed Forces Tribunal after a period of 20 years challenging the summary court martial proceedings of the petitioner. After such a long period in the absence of any cogent material, no relief can be granted to the petitioner because the act of overstayal is admitted in the case in hand. Once the petitioner accepted the guilt he cannot be permitted to challenge the same after such a long period.

10. Insofar as the condonation of short fall of pensionable service period is concerned, it is submitted on behalf of the respondent that the petitioner had rendered service of 14 years 4 months and 22 days, out of which 1 year and 35 days were non qualifying service period. Hence, the actual period is around 13 years 4 months. Secondly, it is submitted by the respondent that as per the para 113(a) of Pension Regulations for the Army 1961 (-1), an individual who is dismissed from service is not eligible for grant of service pension or gratuity. It is submitted that in the above, circumstances, neither the short period can be condoned nor any direction to pay pension can be issued.

11. In view of the above facts and circumstances, we do not find any infirmity in the order passed by the Armed Forces Tribunal. The findings



recorded by the Armed Forces are just and proper and based upon due appreciation of facts, circumstances and provisions of Army Act and rules made thereunder. Consequently, admission is declined. Petition is *dismissed*.
No order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

Akanksha