

Sergeant V. K. Mehta

Vs

Union of India and Others

Special Leave Petition No. 6821 of 1987

(Ranganath Misra, M. M. Dutt JJ)

14.12.1987

ORDER

1. We have heard learned counsel for the parties. We have also seen the documents produced along with the affidavits. On August 14, 1984, a new procedure was introduced with a view to improving the discipline among Airmen. According to the new procedure an Airman becomes liable to being discharged from service once seven offences are committed by him during the service period. In the instant case the petitioner was given a warning on November 30, 1984, that he had already committed six offences and he should be careful in future and in the event of committing one more, he becomes liable to be discharged. On June 1, 1986, the petitioner is said to have committed the seventh offence and on that basis a notice was issued to him to show cause. On July 30, 1986, the petitioner showed cause and ultimately in February 1987, he has been discharged from service.

2. Earlier the petitioner had been given notice that his discharge on completion of fifteen years of total service would be due in January 1988 as he had exercised his option not to continue beyond fifteen years. Ordinarily such notice of discharge is given a year before the date discharge is due.

3. The petitioner challenged the order of discharge made in February 1987 by filing a writ petition before the High Court and upon the same being dismissed has moved this Court by way of special leave. We find that the order of discharge has been made in terms of the new procedure. According to the petitioner, he had showed cause against the notice by alleging that the vehicle had been taken with permission and, therefore, there was no offence committed on June 1, 1986. This aspect, perhaps, may be looked into by the Administrative Superior entitled to deal with the matter and in case the factual plea is accepted, the seventh offence said to have been committed may not be there and the petitioner may be entitled to earn a normal discharge. Instead of the court looking into it, we think a benevolent employer would be a better substitute for examining this. We have suggested to the counsel appearing for the respondent that if such a representation is made within one week from today to the appropriate authority, the same be examined without considering the delay as the petitioner had been agitating the matter both in the High Court and here. The order of the High Court shall not stand in the way of such consideration. Our present order may not be taken as a precedent. Special leave petition is disposed of.

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