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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 20.04.2026**Judgment pronounced on: 27.04.2026**Judgment uploaded on: 27.04.2026*

+ W.P.(C) 14643/2024

LT COL BEANT SINGH (RETD)Petitioner

Through: Mr. T. Parshad, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Rohan Jaitley, CGSC-UIO
with Mr. Akshay Sharma, Mr.
Dev Pratap Shahi, Mr. Varun
Pratap Singh and Mr. Yogya
Bhatia, Advs.**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T****ANIL KSHETARPAL, J.:**

1. The present Petition, preferred by the Petitioner, assails the correctness of the order dated 09.08.2024 [hereinafter referred to as the 'Impugned Order'] passed by the Armed Forces Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'AFT'] in O.A. No. 404/2016, whereby the Original Application filed by the Petitioner seeking grant of back wages for the period from 04.12.2001 to 04.03.2013 has been dismissed. The Petitioner further assails the order dated 13.09.2012, as modified by corrigendum dated 15.02.2013, as well as the order dated 16.11.2015 passed by the Central Government, to the limited extent they deny him back wages



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for the aforesaid period.

2. The issue which arises for consideration in the present Petition is as to whether the Petitioner, whose conviction in the General Court Martial has attained finality but whose sentence was subsequently commuted resulting in his reinstatement in service, is entitled to back wages for the period during which he admittedly did not render service.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Petitioner was commissioned in the Indian Army on 15.12.1984 in the Corps of Engineers. While serving as Garrison Engineer (Project) at Agra, disciplinary proceedings were initiated against him, which culminated in his trial by a General Court Martial under the provisions of the Army Act, 1950 [hereinafter referred to as 'the Act'].

5. The proceedings before the General Court Martial commenced on 28.02.2001 and concluded on 12.04.2001, whereby the Petitioner was found guilty of the charges levelled against him and was sentenced to be cashiered from service and to undergo rigorous imprisonment for a period of one year. Upon confirmation of the findings and sentence by the competent authority, the unexpired portion of the sentence of rigorous imprisonment was remitted; however, the punishment of cashiering was allowed to take effect with



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effect from 04.12.2001. A statutory petition preferred by the Petitioner under Section 164(2) of the Act came to be rejected by the Central Government on 08.08.2003.

6. Aggrieved by the findings and sentence recorded by the General Court Martial, as well as the rejection of his statutory petition, the Petitioner initially approached this Court by way of W.P.(C) No. 772/2004. Upon constitution of the AFT, the said writ petition stood transferred and was registered as T.A. No. 503/2009 before the AFT. The AFT, after considering the matter, *vide* judgment dated 02.05.2011, partly allowed the Transferred Application, however, only to the limited extent of the quantum of sentence, and remitted the matter to the Respondents for reconsideration of the sentence in light of the mitigating circumstances noticed therein. It is material to note that the findings of guilt recorded by the General Court Martial were not interfered with and, thus, attained finality. The Petitioner did not assail the correctness of the AFT judgment dated 02.05.2011.

7. Pursuant to the aforesaid judgment dated 02.05.2011 passed by the AFT, the matter was reconsidered by the Central Government, which, *vide* order dated 13.09.2012, in exercise of powers under Section 163(2) read with Section 179 of the Act, commuted the sentence awarded to the Petitioner. The punishment of cashiering was substituted with the directions that the Petitioner shall take rank and precedence as if his appointment as substantive Major bore date 25.12.1996 and that he be severely reprimanded. The said order, however, specifically provided that the Petitioner shall not be entitled to back wages on the principle of “no work no pay”. Thereafter, by a



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subsequent corrigendum dated 15.02.2013, the Petitioner was directed to be reinstated in service, albeit without grant of back wages for the intervening period.

8. Pursuant to the aforesaid corrigendum dated 15.02.2013, the Petitioner was reinstated in service and, in furtherance thereof, a posting order dated 04.03.2013 came to be issued by the competent authority, whereupon the Petitioner joined duties on 05.03.2013. Thereafter, the Petitioner submitted a statutory complaint seeking grant of back wages for the period from 04.12.2001 to 04.03.2013. The said complaint, upon consideration, came to be rejected by the Central Government *vide* order dated 16.11.2015.

9. Aggrieved by the rejection of his statutory complaint, the Petitioner approached the AFT by filing O.A. No. 404/2016, *inter alia*, seeking grant of back wages for the period during which he remained out of service. The AFT, upon hearing the parties and considering the material on record, framed the principal issue as to whether the Petitioner was entitled to pay and allowances for the period from 04.12.2001 to 04.03.2013, when he had not rendered service.

10. The AFT, while noticing the factual background and the earlier order dated 02.05.2011 passed in T.A. No. 503/2009, recorded that the interference in the earlier round of litigation was confined only to the quantum of sentence and that the findings of guilt recorded by the General Court Martial had not been disturbed. The AFT further held that the Petitioner was never acquitted of the charges and that his



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conviction had attained finality. Upon consideration of the legal position and the judgments relied upon by the parties, the AFT concluded that the principle of “*no work no pay*” was applicable in the facts of the present case, particularly in view of the finding that the Petitioner was kept out of service on account of charges for which he stood convicted. Consequently, the Original Application was dismissed as being devoid of merit.

CONTENTIONS OF THE PARTIES:

11. Contentions of the Petitioner:

11.1. Learned counsel for the Petitioner contended that the AFT has erred in applying the principle of “*no work no pay*” to the facts of the present case. It was contended that the punishment of cashiering imposed upon the Petitioner by the General Court Martial was found to be excessive and disproportionate, which led to its commutation by the Central Government and the consequent reinstatement of the Petitioner in service.

11.2. It was argued that such commutation of sentence would, in effect, relate back to the date of imposition of punishment and, therefore, the Petitioner is liable to be treated as having continued in service without interruption. On this premise, it was urged that the denial of back wages for the intervening period is arbitrary and amounts to the Respondents taking advantage of their own alleged wrong.

11.3. It was further submitted that the Petitioner was always willing



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to serve and was kept out of service on account of an iniquitous punishment, which was subsequently corrected, and thus, the principle of “*no work no pay*” would have no application in the present case.

12. Contentions of the Respondents:

12.1. *Per contra*, learned counsel for the Respondents supported the Impugned Order and contended that the Petitioner was duly tried by a General Court Martial and was found guilty of the charges levelled against him, and that such finding of guilt has attained finality, as the same was never set aside. It was submitted that the Petitioner remained out of service as a direct consequence of his own misconduct culminating in such conviction.

12.2. It was further submitted that the interference in the earlier round of litigation was confined only to the quantum of sentence and not to the conviction, and therefore, the Petitioner cannot claim any consequential monetary benefits as a matter of right. It was contended that the commutation of sentence and reinstatement granted to the Petitioner were in the nature of relief extended upon reconsideration of the quantum of punishment and subject to specific conditions, and cannot be construed as a declaration that the earlier punishment was void ab initio or as conferring a right to claim back wages.

12.3. It was further argued that in the absence of actual discharge of duties during the relevant period, the Petitioner is not entitled to back wages, in view of the settled principle of “*no work no pay*”, which has been consistently affirmed by the Hon’ble Supreme Court, including



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in *Paluru Ramakrishnaiah v. Union of India*¹ and *Baldev Singh v. Union of India*², and which squarely applies to the facts of the present case.

ANALYSIS & FINDINGS:

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

14. At the outset, it is required to be noted that the scope of interference by this Court, in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India, with an order passed by the AFT, is limited. This Court does not sit in appeal over the decisions of the AFT and would interfere only where the impugned order is shown to suffer from patent illegality, perversity, or jurisdictional error. Re-appreciation of evidence or substitution of a plausible view taken by the AFT is not warranted in exercise of writ jurisdiction. It is in the aforesaid limited scope of judicial review that the controversy involved in the present Petition is required to be examined.

15. At the outset, it is required to be emphasised that the Petitioner was subjected to a General Court Martial and was found guilty of the charges levelled against him. The findings of guilt recorded by the General Court Martial were never set aside at any stage. In fact, even in the earlier round of litigation before the AFT` in T.A. No. 503/2009, the interference was expressly confined to the quantum of sentence, and the conviction of the Petitioner was left undisturbed.

¹ (1989) 2 SCC 541

² (2005) 8 SCC 747



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Consequently, the conviction attained finality.

16. In such circumstances, the present case cannot be equated with a case where termination of service is held to be illegal or where an employee is acquitted of the charges levelled against him. The distinction between a case of acquittal or exoneration and a case where the conviction subsists but the sentence is modified is well recognised in service jurisprudence, and the consequences flowing therefrom are materially different. The Petitioner's conviction arose from charges forming the subject matter of the General Court Martial proceedings, which stood proved and were not interfered with.

17. The principal submission advanced on behalf of the Petitioner proceeds on the premise that once the sentence awarded by the General Court Martial was commuted by the Central Government, the same would relate back to the date of imposition of punishment and would obliterate the consequences flowing from the earlier sentence, thereby entitling the Petitioner to all consequential benefits, including back wages. This Court is unable to accept the aforesaid contention.

18. The power exercised by the Central Government under Section 163(2) read with Section 179 of the Act is one of alteration or commutation of sentence and does not amount to a declaration that the original punishment was *void ab initio* or *non est* in the eyes of law. The commutation of sentence, in the facts of the present case, was undertaken in compliance with the directions issued by the AFT to reconsider the quantum of punishment in light of mitigating circumstances and comparative treatment. Such commutation,



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therefore, is in the nature of a modification of the punishment and does not result in setting aside the conviction or underlying proceedings. Consequently, the contention that the Petitioner must be deemed to have been in continuous service for all purposes, including entitlement to back wages, cannot be accepted.

19. Moreover, the question as to entitlement of the Petitioner to back wages is also required to be examined in light of the settled principle of “*no work no pay*”. It is a well-established principle of service jurisprudence that salary is ordinarily payable for the period during which an employee has actually discharged duties, and not otherwise. Though exceptions to the said principle have been recognised in cases where an employee is wrongfully prevented from discharging duties on account of an illegal or unjustified action of the employer, such exception would have no application in a case where the employee was kept out of service on account of a conviction which has attained finality.

20. The said principle has been consistently affirmed by the Hon’ble Supreme Court in decisions such as ***Paluru Ramakrishnaiah*** (supra) and ***Baldev Singh*** (supra), wherein it has been held that an employee is not entitled to salary for a period during which he has not actually discharged duties, even if certain benefits are subsequently extended.

21. In the present case, as noticed hereinabove, the Petitioner was found guilty by a General Court Martial and his conviction has attained finality. The period during which the Petitioner remained out



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of service was a direct consequence of the sentence imposed upon him pursuant to such conviction. The subsequent commutation of sentence, which was limited to modification of the punishment, does not efface the fact that the Petitioner did not render service during the relevant period. In these circumstances, the application of the principle of “*no work no pay*” by the AFT cannot be faulted.

CONCLUSION:

22. In view of the foregoing discussion, this Court is of the considered opinion that the Impugned Order does not suffer from any infirmity.

23. Accordingly, finding no merit in the present Petition, the same is dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 27, 2026
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