

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRLMP NO.383 OF 2014

IN

CRIMINAL APPEAL NO. _____ OF 2017
(D. No.29982/2013)

HAV BIRENDRA SINGH ... Appellant(s)

VERSUS

U.O.I & ORS ... Respondent(s)

O R D E R

Leave to appeal under Section 31(1) of the Armed Forces Tribunal Act, 2007 is granted.

Admit.

Heard Mr. Shree Prakash Sinha, learned counsel for the appellant and Mr. Maninder Singh, learned Additional solicitor General appearing for the Union of India.

On consent of learned counsel for the parties. The matter is taken.

Having heard learned counsel for the parties, though we are not inclined to interfere with the findings recorded by the Armed Forces Tribunal with regard to Charge Nos.1 and 3, we find that the sentence imposed by the authorities that has been affirmed by the Tribunal is quite excessive. The appellant has been dismissed from service. In our considered opinion, discharge will subserve the

cause of justice.

Accordingly, we set aside the punishment of dismissal and direct that the appellant shall be treated to have been discharged so that the appellant can get the benefit of pension and other retiral dues. He shall get the benefit of pension from the date of imposition of the punishment, for our substitution of punishment would relegate to that day. The arrears shall be paid within three months without interest. Thereafter, the benefit of pension shall be paid in continuum. Needless to say, we have passed this order keeping in view the long service rendered by the appellant and also the peculiar facts and circumstances of the case.

The appeal is allowed to the extent indicated above and the order passed by the Armed Forces Tribunal is modified accordingly.

.....,J.
(Deepak Misra)

.....,J.
(A.M. Khanwilkar)

New Delhi;
April 28, 2017.

ITEM NO.7

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CRLMP No. 383/2014 in Criminal Appeal No(s). D 29982/2013

HAV BIRENDRA SINGH

Appellant(s)

VERSUS

U.O.I & ORS

Respondent(s)

(for leave to appeal u/s 31(1) of the armed forces tribunal act, 2007 and office report)

Date : 28/04/2017 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s) Mr. Shree Prakash Sinha, Adv.
Mr. Anand Kumar, Adv.
Mr. Rakesh Mishra, Adv.
Mr. Narendra Kumar, Adv.
Mr. Shekhar Kumar, AOR

For Respondent(s) Mr. Maninder Singh, ASG
Mr. R. Balasubramanian, Adv.
Mr. Nalin Kohli, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Akshay Amritanshu, Adv.
Ms. Aditi Sharma, Adv.
Mr. Ananya Mishra, Adv.
Mr. Rohit Rathi, Adv.
Mr. M.K. Maroria, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave to appeal under Section 31(1) of the Armed Forces Tribunal Act, 2007 is granted.

Admit.

The appeal is allowed to the extent indicated in the signed order and the order passed by the Armed Forces Tribunal is modified accordingly.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)