

# H\_C\_Dhingra\_vs\_Union\_Of\_India\_And\_An\_r\_on\_13\_October\_1988 Report

Generated on: 2025-03-21 15:26:26

## Summary:

When it is proposed to terminate the service of an officer under section 19 on account of misconduct, he shall be given an opportunity to show cause in the manner specified in sub-rule (2) against such action :

(2)When after considering the reports of an officer's misconduct, the Central Government or the Chief of the Army Staff is satisfied that the trial of the officer by court-martial is inexpedient or. impracticable, but is of the opinion that the further retention of the said officer in the service is undesirable, the Chief of the Army Staff shall so inform the officer together with ell reports adverse to him and he shall be called upon to submit, in writing, his explanation and defense : IN the event of the explanation of the officer being considered unsatisfactory by the Chief of the Army Staff, or when so directed by the Central Government, the case shall be submitted to the Central Government with the officer's defense and the recommendations of the Chief of the Army Staff as to the termination of the officer's service in the manner specified in sub-role (4).

(8) Mr. Satpal urged that the judgment in the case of Major Harbhaian Singh is distinguishable: as the Government could not give any cogent explanation for the lapse of time prescribed for trial in that case, while in the present case, according to him, the Government has explained the delay; as Major Harbhajan Singh was willing to face a trial by a court martial, but the petitioner in the present case was not inclined to waive the time limit for that purpose; and further, as Major Harbhajan Singh challenged the final order of his dismissal from service, whereas, in the present case, the petitioner has rushed to court at the stage of show cause notice without giving to the authorities any

explanation regarding the misconduct alleged against him. He has accordingly directed that you should be informed and called upon to submit in writing your explanation in defense, if any."

(4) The petitioner has challenged the show cause notice on the ground that the Chief of Army Staff has no jurisdiction to proceed against him, under section 19 of the Army Act read with Army Rule 14, in respect of allegations of misconduct constituting an offence, as section 122 of the Army Act prohibits a trial by court martial after the expiration of period of three years from the date of such offence. To support this argument, he relied heavily upon decision of the Supreme Court in Chief of Army Staff v. Dharam Pal, In that case a show cause notice dated 12th November 1976, issued under Rule 14 of the Army Rules, was upheld despite the General Court Martial finding the concerned officer not guilty on 13 October, 1988

Equivalent citations: ILR1988DELHI33, 1989RLR101

## JUDGMENT

Apun B. Saharya, J.

(1) By this writ petition under Article 226 of the Constitution of India, the petitioner has sought a writ of certiorari to quash a notice dated 8th April, 1988, issued under the directions and on behalf of the F Chief of Army Staff, calling upon the petitioner to show cause why his services should not be terminated under section 19 of the Army Act, 1950 read with Army Rule 14.

### **Key Clauses:**

1. H.C. Dhingra vs Union Of India And Anr.

2. on 13 October, 1988 H.C. Dhingra vs Union Of India And Anr.

3. on 13 October, 1988 Equivalent citations: ILR1988DELHI33, 1989RLR101

4. JUDGMENT Apun B. Saharya, J. (1) By this writ petition under Article 226 of the Constitution of India, the petitioner has sought a writ of certiorari to quash a notice dated 8th April, 1988, issued under the directions and on behalf of the F Chief of Army Staff, calling upon the petitioner to show cause why his services should not be terminated under section 19 of the Army Act, 1950 read with Army Rule 14.

5. (2) The writ petition was filed on 25th April 1983.

6. By an interim order made on 27th April 198" the respondents were restrained from proceeding further with the show cause notice.

7. That order was, confirmed on 27th May, 198.8 and, in view of retirement of the petitioner from service due on 31st

8. May, 1988, it was clarified that the rights of the respondents to proceed in pursuance of the show cause notice and the petitioner's entitlement to retrial benefits will be subject to the decision in the writ petition.

9. (3) In the impugned show cause notice, it is stated that while the petitioner was employed as a Staff Officer in the Office of the Chief Engineer, Jaipur Zone during 20th September 1979 to 04th June 1983, a Board of Officers, convened by Chief Engineer, Southern Command, was held in 1983 to investigate the financial irregularities in the local purchases of steel and re- rolling of billets in the said Office.

10. It is further stated that the proceedings of the said Board of Officers were placed before the Chief of Army Staff, who after due consideration had observed certain lapses on the part of the petitioner.

#### **Detected Risks:**

No risks detected.

- **New Data Protection Law:** The latest regulations require enhanced user consent for data collection.

- **Compliance Update:** Updated guidelines on contract enforcement and risk mitigation.