

Ex Cpl Vv Sudheer vs Union Of India And Ors on 2 April, 2025

Author: C.Hari Shankar

Bench: C. Hari Shankar

\$~29 to 32

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3930/2025 & CM APPL. 18354/2025
EX CPL DEEPAK KUMAR

.....Pet

Through: Mr. Durgesh Kumar Shar
Adv.

versus

UNION OF INDIA AND ORSRespondents
Through: Mr. Sahaj Garg, Sr. PC with
Ms. Shubhi Bhardwaj, Adv. for UOI with
Mr. Amit Vashisht, Air Force

+ W.P.(C) 4089/2025 & CM APPL. 19011/2025
EX CPL JITENDRA SINGH

.....Pet

Through: Mr. Durgesh Kumar Shar
Adv.

versus

UNION OF INDIA AND ORSRespondents
Through: Mr. Syed Haseeb, CGSC with
Mr. Anisul Haque, GP for UOI

+ W.P.(C) 4091/2025 & CM APPL. 19015/2025
EX CPL SAURABH VERMAPetitioner
Through: Mr. Durgesh Kumar Sharma,
Adv.

versus

UNION OF INDIA AND ORSRespondents
Through: Ms. Suruchi Mittal, Sr. PC with
Mr. Amit Acharya, GP for UOI

Signature Not Verified
Digitally Signed By:AJIT

W.P.(C) 3930/2025 and connected matters

KUMAR
Signing Date:07.04.2025
20:57:54

+ W.P.(C) 4097/2025 & CM APPL. 19046/2025
EX CPL VV SUDHEER

.....Pet

Through: Mr. Durgesh Kumar Shar

Adv .

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Tanveer Ahmed Ansari, Sr.
PC with Mr. Hilal Haider, GP for UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

%

02.04.2025

C.HARI SHANKAR, J.

1. The petitioners, in these writ petitions, were the applicants before the Armed Forces Tribunal¹ in OA 1365/20242, OA 1328/20243, OA 1349/20244 and OA 2823/20245, whereby they challenged the orders passed by the respondents dismissing them from service under Section 20(3) of the Air Force Act, 1950 read with Rule 18 of the Air Force Rules, 1969. They also moved applications, with the OAs, seeking interim injunction.

2. The AFT has, by a common order dated 6 December 2024, dismissed the applications seeking interim relief.

1 "the AFT", hereinafter 2 Ex. Cpl Deepak Kumar v UOI 3 Ex. Cpl Jitendra Singh v UOI 4 Ex. Cpl V V Sudheer v UOI 5 Ex. Cpl Saurabh Verma v UOI

3. Thereafter, the petitioners filed applications seeking early hearing of their OAs, which also stand dismissed by the AFT by individual orders passed in each case.

4. These writ petitions assail the common order dated 6 December 2024, whereby the petitioners' prayer for interim relief has been rejected, as well as the orders by which their prayer for early hearing of their OAs have been dismissed.

5. We have heard Mr. Durgesh Kumar Sharma, learned Counsel for the petitioners and Mr. Sahaj Garg, learned Senior Panel Counsel appearing for the respondents in WP (C) 3930/2025, Mr. Syed Haseeb, learned CGSC appearing for the respondents in WP (C) 4089/2025, Ms. Suruchi Mittal, learned Senior Panel Counsel appearing for the respondents in WP (C) 4091/2025 and Mr. Tanveer Ahmed Ansari, learned Senior Panel Counsel appearing for the respondents in WP (C) 4097/2025.

6. We find no reason to interfere with either of the orders under challenge in these writ petitions.

7. Insofar as the challenge to the rejection of the petitioners' prayer for interim relief is concerned, this Court is not exercising appellate jurisdiction over the decisions of the AFT. Our jurisdiction partakes of the character of certiorari. In exercise of such jurisdiction, we ordinarily loath to interfere with the interim orders passed by the AFT, which are fundamentally discretionary in nature.

8. Secondly, the orders under challenge are orders of dismissal from service. Classically, there can no interim stay of an order dismissing an employee from service, as it would amount to restoring the status quo ante at an interim state, which cannot be granted.

9. Needless to say, should the petitioners succeed in their OAs, appropriate reliefs would be available to them.

10. Thirdly, we may reproduce the reasoning of the AFT in paras 10 to 13 of the order dated 6 December 2024, thus:

"10. We have taken judicial notice of the fact that very recently, in one of the matters pertaining to the Indian Air Force, similar allegations of Multi Level Marketing by an air warrior, his association in the name of his wife with the said business, his travelling to foreign countries and misusing the official powers available to him were all considered and the applicant was dismissed from service, the prayer for interim relief was rejected by a detailed order under similar circumstances in MA No.5004/2024 in OA No.3731/2024-Sgt Shivpal Singh Khangarot Vs. Union of India & Ors., vide order dated 18.11.2024. In that case also similar situation was existing. However, in the present MA No.5266/2024, the applicant has contended that in the case of Air Warrior AC Jasmeet Singh, for similar allegations a minor punishment has been imposed and his case has not been dealt with severely as has been done in the case of the applicant and, therefore, parity is claimed by granting stay of the dismissal order.

11. We find from the material available on record that in the Indian Air Force more than 150 Airmen were found to have been involved in the matter of participating in QNET /MLN business. A policy decision was taken to initiate an inquiry into the matter and by an administrative order dismiss or punish the employee concerned. The acts of commission and omission were classified into three categories based on the total monetary consideration involved in the transactions and the duration of the investment in QNET. Based on the monetary transactions and the period of duration various punishments have been imposed to more than 150 Air Warriors. The case of every Air Warrior is different. The punishment imposed is on different facts and circumstances and by be drawn. The issue has to be scrutinized, analysed and thereafter a decision is taken. There are serious allegations against the applicant. A man in uniform is a member of the disciplined force and is not expected to indulge in such business activities, accordingly, taking note of the facts and circumstances of the case, we see no reason to grant any interim relief to the applicant for the simple

reason that the three conditions necessary for grant of injunction, i.e., existence of prima facie case, balance of convenience and irreparable loss do not exist together in favour of the applicant.

12. Prima facie, the facts of the present case are not in favour of the applicant for the simple reason that in the Col, the allegation against the applicant with regard to the act of participating in private business stands proved. Balance of convenience is also not in favour of the applicant because the Air Force is a sensitive establishment involved in national security and, therefore, keeping such a person in service who indulges in private business and even visits foreign countries in connection with the trade unauthorizedly cannot be kept in service and, therefore, balance of convenience is not in favour of the applicant. Finally, as far as irreparable loss is concerned, there is no irreparable loss to the applicant for the reason that ultimately after hearing the matter, we find that the dismissal of the applicant is not warranted, the dismissal can be set aside and the applicant compensated by grant of back wages and all other service benefits. That being so, finding no case made out for granting any interim relief, MA No.5266/2024 stands rejected. Resultantly, MA No.1642/2024 filed initially by the applicant seeking the interim relief also stands dismissed."

11. It is in view of the aforesaid prima facie observations that the AFT has found that the case did not merit grant of any interim protection.

12. The order is purely discretionary in nature, based on a prima facie appreciation of the merits of the matter. There is obviously no jurisdictional error or any other infirmity in the reasoning of the AFT as would merit interference by us under Article 226 of the Constitution of India.

13. We, therefore, find no reason to interfere with the order under challenge in these writ petitions.

14. The writ petitions are, accordingly, dismissed in limine.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 2, 2025/aky [Click here to check corrigendum](#), if any