

ARMED FORCES TRIBUNAL, REGIONAL BENCH,
GUWAHATI

Transferred Application No. 02 of 2017

Monday, this the 03rd day of April, 2023

"Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Air Marshal Balakrishnan Suresh, Member (A)"

No. 192791P Rifleman Manoranjan Chakma S/o
Manucha Chakma, C/o 19 Assam Rifles.

.....Petitioner

Ld. Counsel for : **Shri AR Tahbildar**, Advocate
Applicant

Versus

The Union of India and Others.

.....Respondents

Ld. Counsel for the : **Ms Dipanjali Bora**, Advocate
Respondents Central Govt Counsel

ORDER (Oral)

"PER MR JUSTICE UMESH CHANDRA SRIVASTAVA, MEMBER (J)"

1. Being aggrieved with conviction of life imprisonment by General Court Martial (GCM), petitioner had filed writ petition (Crl) No. 1/2012 in the Hon'ble High Court of Judicature at Guwahati for setting aside order dated 24.10.2008 passed by Commandant 20 Assam Rifles which was transferred to this Tribunal vide order dated 13.11.2017 and re-numbered as T.A. No. 02 of 2017.

2. Brief facts of the case are that the petitioner was enrolled in Assam Rifles on 19.04.1986 and after completion of his basic training he was posted to 19 Assam Rifles on 05.05.1987. On 06.10.2005 Rifleman Sashi Kant Singh of 19 Assam Rifles was found shot dead. Preliminary inquiry found that the victim was hit on his chest with a bullet fired from 5.56 mm INSAS Rifle Registered No. 16384219, Butt No. 129 which was issued to No. 192791P Rifleman Manoranjan Chakma of the same unit. FIR was lodged at

Lamlei Police Station vide No. 90 (10) 05 under Section 302 IPC and 27 Arms Act on 06.10.2005 and following items were seized by the Officer-in-Charge, Lamlei Police Station:-

- (i) One 5.56 mm INSAS Rifle, Butt No 129 bearing Registered No 16384219.
- (ii) One INSAS Rifle Magazine lot No 1299/2002 containing 19 (Nineteen) live rounds of 5.56 mm INSAS ammunition.
- (iii) One empty case of 5.56 mm INSAS Rifle.
- (iv) A pair of Moreh Hawai Chapal Sky Blue colour.

3. Convening order dated 06.10.2005 was issued by 10 Sector Assam Rifles and Court of Inquiry (C of I) was held on 06.10.2005 and subsequent days which gave its opinion on 02.11.2005 as under:-

"On 06.10.2005 at about 13.45 hours Number 192791P Rifleman (General Duty) Manoranjan Chakma moved out of his platoon barrack with his cocked Rifle in his hands. While moving out he was shouting and using abusive language. Perhaps on hearing the loud noise and abusive language, No G/192942H Rifleman (General Duty) Sashi Kant Singh after coming out of the

platoon barrack saw No 192791P Rifleman (General Duty) Manoranjan Chakma in the open patch in front of No 18 Platoon veranda and the company store and asked him as to where he was going with the Rifle in his hands. No 192791P Rifleman (General Duty) Manoranjan Chakma replied to him in a foul language. No G/192942H Rifleman (General Duty) sashi Kant Singh then tried to stop him from using abusive language and moving with the Rifle, but No 192791P Rifleman (General Duty) Manoranjan Chakma did not like the same. It appears that No 192791P Rifleman (General Duty) Manoranjan Chakma could not control himself under the influence of liquor and in a state of anger fired at No G/192942H Rifleman (General Duty) Sashi Kant Singh. On being hit by the bullet No G/192942H Rifleman (General Duty) Sashi Kant Singh fell on the ground without making any noise or making any movement and died on the spot itself. Therefore No 192791P Rifleman (General Duty) Manoranjan Chakma is blamed for the death of No G/192942H Rifleman (General Duty) Sashi Kant Singh for which he should be tried."

4. Thereafter, based on opinion of C of I proceedings, Officiating Inspector General Assam Rifles (South) directed that No. G/192791P Rifleman (General Duty) Manoranjan Chakma be tried by General Court Martial for causing death of No. G/192942H Rifleman (General Duty) Sashi Kant Singh of 19 Assam Rifles. Accordingly, Summary of Evidence (S of E) and Additional

Summary of Evidence were recorded on 25.12.2006 and 11.06.2007 respectively.

5. Petitioner was detained under custody of Police Station, Imphal East, Manipur w.e.f. 08.10.2005 and he was released on bail on 18.02.2006 vide order dated 18.02.2006 passed by Judicial Magistrate, Imphal East. On being released on bail, petitioner did not report to unit but instead continued to stay at his residence. On being ordered to report for duty, he reported to 19 Assam Rifles on 26.07.2006. By order dated 20.06.2008 passed by Directorate General Assam Rifles he was attached with 20 Assam Rifles to face the GCM which commenced w.e.f. 02.07.2008. He was tried for an offence under Army Act Section 69 read with Section 302 of the IPC and on conclusion of the GCM he was found guilty and sentenced to (i) suffer imprisonment for life and (ii) to be dismissed from service. Thereafter, the punishment was confirmed vide order dated 24.02.2009 and he was handed over to Superintendent of Police, Lunglei, Mizoram on 18.04.2009 to undergo life imprisonment. On

18.06.2012 while undergoing imprisonment, petitioner submitted an appeal to the Hon'ble High Court of Guwahati mentioning therein wrongs done to him and setting aside the impugned order dated 24.10.2008 by which Army Court passed order for his dismissal from service and life imprisonment. Thereafter, notice was served to Director General Assam Rifles asking relevant records related to GCM and copy of FIR. Later, the case was transferred to this Tribunal in the year 2017. Petitioner has pleaded for setting aside order dated 24.10.2008 and grant him service pension after converting dismissal into discharge.

6. Heard learned counsel for the parties and perused the record.

7. Submission of learned counsel for the petitioner is that the petitioner was neither provided copy of the GCM proceedings held on 24.10.2008 nor was he provided opportunity to cross examine the witnesses during C of I and recording of S of E. In regard to this respondents' contention is that the petitioner was

provided copy of GCM proceedings on 24.10.2008 and a receipt was obtained (Annexure R-17). Respondents have also contended that the petitioner was also provided adequate opportunity to cross examine the witnesses during C of I and S of E which is corroborated by questions put by the petitioner and answers given by the witnesses.

8. We find that the petitioner intentionally murdered his colleague Number G/192942H Rifleman (General Duty) Sashi Kant Singh by firing from 5.56 mm INSAS Rifle. He was tried by General Court martial on 11.10.2008 for the said offence under Army Act Section 69 read with Section 302 IPC. An impartial and fair trial was conducted by the respondents and the petitioner was given every opportunity to defend his case. Shri N Bani Kumar Singh, an advocate of Hon'ble Guwahati High Court (Imphal Bench) was detailed as the defence counsel which makes it clear that the petitioner was provided adequate opportunity to defend his case.

9. The petitioner's contention of being the only earning member of his family does not, in any way, authorize him to commit a heinous crime as murder of an innocent comrade. The GCM proceedings substantiate the fact that the petitioner was punished after careful deliberation of all aspects.

10. We further notice that applicant in Para 5 (c) of the writ petition has denied receipt of GCM proceedings and confirmation minute dated 24.02.2009 but we find that GCM proceedings were handed over to him through letter dated 24.10.2008 and confirmation minute dated 24.02.2009 was handed over to him for which a certificate dated 23.10.2008 was obtained on 24.10.2008 (Annexure R-15 and R-17).

11. During the course of S of E and GCM, statements of witnesses were recorded as per the procedure laid down under Army and Indian Evidence Act giving ample opportunities to the petitioner during trial to present his case and prove his innocence. The petitioner was found guilty at every stage of trial in the GCM and his

conviction was not only based on circumstantial evidence but was also supported by the statements given by the eye witnesses. The weapon which was used to commit the crime was also issued to the petitioner. The fact is that the petitioner murdered his colleague and he was rightly punished to undergo life imprisonment which he is serving w.e.f. 18.04.2009.

12. Petitioner's contention that he was not provided legal aid to defend himself is not tenable as Shri N Bani Kumar Singh, Advocate Guwahati High Court (Imphal Bench) was detailed as the defence counsel and Shri E Langam Jiten Singh supported him to assist throughout the trial which substantiates this fact that he was provided adequate opportunity to defend his case.

13. During the course of hearing it was informed by learned counsel for the applicant that the petitioner has been released from jail on account of remission of his sentence.

14. In view of the above, and under the facts and circumstances of the case, this transferred

application has no merits and does not call for any interference in the punishment awarded by the GCM.

15. The O.A. is **dismissed**, accordingly.

16. No order as to costs.

17. Pending applications, if any, are disposed off.

(Air Marshal Balakrishnan Suresh)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 03.04.2023
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