



2025:DHC:6009-DB



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

+ W.P.(C) 10505/2025 and CM APPL. 43614-615/2025

LT COL VINOD CHANDRA NORKI .....Petitioner

Through: Mr Indra Sen Singh, Mr Nasir  
Mohd and Ms Kaberi Sharma

versus

UNION OF INDIA & ORS. ....Respondents

Through: Mr. Amit Tiwari, CGSC, Mr.  
Hussain Taqvi, GP Ms. Ayushi Srivastava,  
Adv, Mr. Ayush Tanwar, Adv, Ms. Nishtha  
Dhall, Adv with Major Anish Muralidhar

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**JUDGMENT (ORAL)**

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**23.07.2025**

**C. HARI SHANKAR, J.**

1. This writ petition assails orders dated 14 May 2025 passed by the Armed Forces Tribunal<sup>1</sup> in OA 1421/2025.

2. The petitioner was commissioned in the Indian Army on 12 June 2010. Based on certain medical tests, which were carried out on him by a Medical Board, he was issued a show cause notice under Rule 15A of the Army Rules, 1954, proposing to invalid him out of service on the ground that he was suffering from Alcohol Dependence

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<sup>1</sup> "the Tribunal", hereinafter



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Syndrome.

3. The petitioner filed an appeal against the decision of the Medical Board and also replied to the show cause notice.

4. While the appeal and the reply to the show cause notice was pending, the petitioner moved the learned Tribunal by way of OA 1421/2025. The learned Tribunal has declined to interfere in the matter, by the impugned order dated 14 May 2025 on the ground that the petitioner could raise all issues including jurisdictional aspects, before the authority who would adjudicate the show cause notice and, if they pertained to the report of the Medical Board, before the Appellate Authority before whom the appeal had been filed.

5. We may reproduce in this context, paras 5 to 7 of the order passed by the Tribunal, thus :

“5. Having considered the rival contentions and ongoing through the records, we are of the opinion that finding the applicant to be medically unfit for discharging military duties on various counts, the Medical Board has given an opinion and based on the opinion of the Medical Board, the impugned SCN has been issued to the applicant under Rule 15 A of the Army Rules, 1954. Rule 15 A of the Army Rule, 1954, empowers release of an officer on medical ground if the officer is found to be permanently unfit for any form of military service by the Medical Board. That being so, the issue before this Tribunal is as to whether at this stage of issuance of SCN itself, indulgence can be made in exercise of the scope of judicial review in this matter as the applicant has already filed an appeal against decision of the Medical Board and he has also submitted his reply to the SCN. The issue is *sub Judice* before the competent authorities under the Army Act and Rules framed thereunder and, therefore, in our considered view at the first instance, it is for the competent authority to evaluate the grievance of the applicant, consider procedural and statutory violation as alleged by the applicant and, thereafter take a decision.



6. At this stage, this Tribunal in exercise of its powers of judicial review under Section 14 of the Armed Forces Tribunal Act, 2007, is not expected to step into the issues of the competent authority, evaluate the various aspects and take a decision to quash the SCN. In our considered view, this is beyond the scope and jurisdiction of this Tribunal and, therefore, at this stage, when only a SCN is issued and a final decision on the SCN is yet to be taken by the competent authority, in the peculiar facts and circumstances of this case, indulgence into the matter is not called for. It is for the competent authority before whom the appeal against the decision of the Medical Board is pending and the proceedings initiated by the SCN under Rule 15 A of the Army Rule, 1954, is pending to evaluate the grievance of the applicant in the backdrop of the grounds raised by him, take a decision in the matter and then only in case the applicant has any grievance still subsisting, this Court to interfere into the matter after the applicant exhaust all statutory remedies available under the Army Act, the Army Rules and the other statutory provisions applicable.

7. Accordingly, in the facts and circumstances of the case, no case is made out for interference, at this stage, when only a SCN is issued. We dispose of the matter, leaving it to the applicant to prosecute the matter before the competent authorities where the issues are pending after issuance of the SCN and the appeal filed by him against the decision of the Medical Board.”

6. Aggrieved thereby, the petitioner has approached this Court by way of the present writ petition.

7. We have heard Mr. Singh, learned counsel for the petitioner and Mr. Tiwari, learned CGSC for the respondent.

8. Mr. Singh submits that there were various jurisdictional issues which were raised by him before the learned Tribunal, which have not been considered by it.

9. The learned Tribunal has taken a view that all issues, including jurisdictional aspects, could be taken before the authority who would



adjudicate on the show cause notice issued to the petitioner. We find no infirmity in the said view.

10. It is a settled position that during the pendency of a show cause notice, Courts should ordinarily not interfere.

11. Besides we are not exercising original jurisdiction in this matter. Our jurisdiction is of certiorari, which is circumscribed by the following passages from the judgment of the Supreme Court in *Syed Yakoob v K.S. Radhakrishnan*<sup>2</sup>:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as*

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<sup>2</sup> AIR 1964 SC 477



*an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v Syed Ahmad Ishaque**<sup>3</sup>, **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**<sup>4</sup> and **Kaushalya Devi v Bachittar Singh**<sup>5</sup>).*

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. *What can be corrected by a writ has to be an error of law; hut it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record.* It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record.* If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of

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<sup>3</sup> (1954) 2 SCC 881

<sup>4</sup> AIR 1958 SC 398

<sup>5</sup> AIR 1960 SC 1168



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law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

**12.** Within the limited parameters of certiorari jurisdiction, it is clear that there is no infirmity in the view taken by the Tribunal. No case, therefore, arises for us to interfere with the impugned decision.

**13.** However, at request of Mr. Singh, learned counsel for the petitioner, we direct the Authority adjudicating the show cause notice to also consider the grounds raised in the OA before the Tribunal while adjudicating the Show Cause Notice.

**14.** Needless to say, should the petitioner be aggrieved by the decision on the show cause notice or by the decision of the Appellate Medical Board, his remedies, as in law, available to him, would remain reserved.

**15.** Subject thereto, the petition is dismissed.

**C. HARI SHANKAR, J.**

**OM PRAKASH SHUKLA, J.**

**JULY 23, 2025/yg**