

Armed Forces Tribunal Act, 2007 - S.14, S.31, S.31(1) - Navy (Discipline and Miscellaneous Provisions) Regulations, 1965 Regulation 216 - Regulation 216 deals with the dismissal of an officer from service on disciplinary grounds - The appellant has not been dismissed from service - His service as a sailor was protected and even his seniority was protected - The withdrawal did not affect his service in any manner - In this case, we are not dealing with disciplinary action, but the action of withdrawal of the appellant from the course on the ground that the appellant was found deficient in basic character and other officer like qualities - We are dealing with a very disciplined force like the Navy - The appellant who was already in Naval service as a sailor was given an opportunity to undergo training - While assessing whether the appellant was found deficient in basic character and other officer like qualities, the conduct of the appellant, which is reflected from the Inquiry Report, two show cause notices and his own statement, has been taken into consideration. We have already quoted relevant Rules which provide that only the withdrawal on medical grounds will be governed by Regulation 216 of the said Regulations - There are four other grounds mentioned therein, on the basis of which, withdrawal can be made - As can be seen from the said Rules and considering the fact that the question was of continuing training of the appellant, the competent authority could have always taken the decision of withdrawal on the basis of its subjective satisfaction of the existence of one of the grounds for withdrawal provided in the Rules - In this case, the subjective satisfaction of the competent authority is on the basis of material on record - Held, At least on two occasions, the appellant was put to notice and warning and was given an opportunity to explain his conduct. While taking action of withdrawal of the appellant from training, the competent authority made the assessment of the performance and conduct of the cadet in INA during his training. There was material on record to come to a subjective satisfaction that the appellant was deficient in basic character and officer like qualities. Two show cause notices were served upon the appellant before taking the action of withdrawal. There was an opportunity given on two occasions to the appellant to explain his conduct and improve his conduct. His conduct as reflected from record, certainly supports the conclusion that he lacked the qualities which an officer of Navy must possess.

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