

(2021) 03 DEL CK 0033

In the Delhi High Court

Case No : Civil Writ Petition No. 12363, 13700 Of 2019, 199, 531 Of 2020, Civil Miscellaneous Application No. 55189 Of 2019, 1409 Of 2020

Dinkar Kumar Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 01-03-2021

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2021) 03 DEL CK 0033

Hon'ble Judges : Manmohan, J;Asha Menon, J

Bench : Division Bench

Advocate : Dr. Kanwal Sapra, Sandeep Tyagi, K B Upadhyay

Final Decision : Dismissed

Judgement

Manmohan, J

1. The petitions have been heard by way of video conferencing.
2. Present writ petitions have been filed challenging the office orders issued by the respondents whereby petitioners have been terminated on the ground that they had not completed their training in two years due to medical unfitness.
3. Learned counsel for the petitioners submit that though the petitioners had two chances to appear for the training programme, yet the respondents never allowed the petitioners to take the second chance.
4. Learned counsel for the petitioners also submit that the petitioners have been discriminated again, inasmuch as, a large number of candidates have been allowed in the past to complete their training beyond the two-year training period.

5. This Court finds that Para 2(vii) of the offer of appointment clearly mentions
“He will have to successfully complete basic recruit training

course being conducted by Sashastra Seema Bal within a period of two years from the date of appointment. Not more than two chances will be

given.”

6. Admittedly, due to medical unfitness, the petitioners could not complete the basic recruit training course within two years from the date of

appointment.

7. This Court is of the view that if the petitioners’ submission that they be given two chances to complete their basic recruit training course even

beyond two years from the date of appointment is accepted, then the new recruits may not complete their training for very long period and as a

consequence, the combatised force shall not be able to deploy able-bodied persons for combat duties for a long period of time. Such an interpretation

would defeat the intent and purpose of creating a centralized combatised force like Sashastra Seema Bal, more so, when Para 2(vii) of the offer of

appointment provides for nearly double the time to complete the training. This has been so held by this Division Bench in Ravi Ranjan Kumar Vs.

Union of India, W.P.(C) 2402/2021 decided on 22nd February, 2021.

8. This Court is also of the opinion that it should not ask the respondent to lower/dilute their standards specially when it pertains to a Central

Paramilitary Force.

9. As far as the aspect of discrimination is concerned, it is a well settled that Article 14 of the Constitution is a positive concept and cannot be

enforced in a negative manner. Irregularity and illegality cannot be perpetuated on the ground that the illegal benefits have been extended to others.

Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any

legal right on others to get the same relief as well. If such a wrong is committed in an earlier case, it cannot be perpetuated under Article 14 of the

constitution. [see: (2010) 2 SCC 59 “Union of India Vs. M.K. Sarkar” and (2013) 14 SCC 81 “Basawaraj and Another Vs. Special Land

Acquisition Officer”].

10. Accordingly, the present writ petitions being bereft of merits are dismissed.

11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.