
(1994) 05 DEL CK 0068

In the Delhi High Court

Case No : Civil Writ Petition No. 1161 of 1994

G.R. Padmanabha

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 12-05-1994

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 3 AD 45 : (1994) 30 DRJ 74

Hon'ble Judges : D.P Wadhwa, J;D.K. Jain, J

Bench : Division Bench

Advocate : R.N. Sharma and K.C. Mittal, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) The petitioner, a Sergeant in the Indian Air Force, by this petition filed under Article 226 of the Constitution, seeks a direction to the respondents numbering five for discharge of the petitioner from service, and further that his option dated 26 February 1980 submitted by him be declared null and void and contrary to instructions issued by the authorities under Air Force Instruction No. 21/79 (Corrigenda 15/79) dated 1 October 1979. The five respondents are respectively, Union of India through the Secretary Ministry of defense; Chief of Air Staff; Director of Personnel (Airmen); Air Officer Commanding, Air Force Station, New Delhi; and Air Officer Commanding, Air Force Record Office, New Delhi. Under the relevant Air Force Instruction, a candidate will be enrolled initially for 20 years' regular service, but those who failed to attain the rank of Corporal within 15 years will be discharged. The petitioner who joined as Airman attained the rank of Corporal and then to a Sergeant. Then there are notes to this Air Force Instruction and Note 1 is relevant, which is as under :- "Note 1 -Airman already serving their 15 years" initial engagement may be allowed to contract for 20 years engagement counting from the date of their enrolment by giving an option to that effect. Airmen so willing to extend their period of initial engagement should give their option in writing within six months of the date of issue of this

AFI. Option once exercised will be final and irrevocable. If an individual does not give his option in writing by the stipulated date, the provisions of the increased period of initial engagement for 20 years will not be applicable to him.

(2) The petitioner exercised his option on 26 February 1980 willing to extend his initial engagement from 15 years to 20 years from the date of enrolment, which was 4 December 1978, in terms of the aforesaid A.F.I. The petitioner then applied for discharge before 20 years of service. His request was declined in view of the option exercised by him. He said the option should have been exercised within six months of 1 October 1979 and it having been exercised on 26 February 1980 was beyond the period of six months and was not valid. This submission is wrong. The A.F.I. instruction in question was issued on 1 October 1979 and the option exercised on 26 February 1980 was within the period of six months. Then the petitioner applied for his discharge on compassionate grounds under Air Force Order No. 1 dated 7 January 1978. While his request was being examined, he filed the present petition. We were inclined to issue directions to the respondents to examine the request of the petitioner in terms of the Air Force Order No. 1 dated 7 January 1978. However, Mr. Mittal produced the file before us and we find that the discharge of the petitioner has been approved as a special case. It is, Therefore, unnecessary for us to issue any directions. Since the petitioner has already been approved for his discharge, it is unnecessary for us to pass any order. This petition, Therefore, stands disposed of. Rule is discharged. There will be no order as to costs.