
(2012) 01 DEL CK 0170

In the Delhi High Court

Case No : WP (C) No. 7353 of 2011 and CM No. 16676 of 2011

Md. Shahbaz Alam

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0170

Hon'ble Judges : J.R. Midha, J;Anil Kumar, J

Bench : Division Bench

Advocate : Arvind Nayar and Mr. Zeyaul Haque, for the Appellant; Himanshu Baja, Advocate for the respondent Nos. 1 to 3, for the Respondent

Final Decision : Allowed

Judgement

Anil Kumar, J.—The petitioner, an Airman with the Indian Air Force, has sought an appropriate writ directing the respondent Nos.1 & 2 to discharge him from the service in view of his offer of appointment to the higher post of Assistant Commandant in the Central Reserve Police Force. The petitioner has also sought a direction to respondent No. 3 to not fill the post of Assistant Commandant offered to him vide appointment letter dated Nil September, 2011 requiring him to report to the CRPF Academy at Kadarpur, Gurgaon, (Haryana) on or before 12th October, 2011.

2. The petitioner had joined the Air Force as an Airman/NC's (E) on 16th June, 2003. The petitioner asserted that as per the joining instructions as stipulated in para 8, the petitioner could apply for the Class I Government job on acquiring the requisite qualifications.

3. The respondent Nos.1 & 2 had issued an AFO dated 9th May, 2003 contemplating that an Airman on completion of 7 years of his engagement including training period will be permitted to apply for civil posts under the Central/State Government and Public Sector Undertakings. The petitioner pleaded that he completed 7 years on 15th June, 2010 and thereafter applied for

the discharge certificate from the respondent Nos.1 & 2. The petitioner relied on the law laid down by the Courts holding that completion of 7 years is not required at the time of applying but only at the time of consideration for issuance of the discharge certificate. The petitioner also referred to and relied on the Air Force order dated 29th June, 2001 detailing the grounds on which a discharge application could be submitted by an Airman and also relied and referred to AFO 14/08 dated 19th September, 2008 stipulating that 7 years of service is to be considered from the date of enrollment, while applying for civil posts under the Central/State Government. Reference was also made to the amended AFO 16/08 dated 19th September, 2008 contemplating compassionate and other grounds for discharge from the service.

H 4. The petitioner contended that on 9th May, 2009 the Union Public Service Commission, respondent No. 4 had issued an advertisement for selection to the post of Assistant Commandant. The petitioner had applied for the post of Assistant Commandant and appeared on 11th October, 2009 for the written test to be conducted by the UPSC. The petitioner qualified the written test in June, 2010 and thereafter he received a call from respondent No. 3 to attend the Physical Efficiency Test (PET). On 19th August, 2010 the petitioner received a communication asking him to appear for an interview-cum-personality test conducted by respondent No. 4. Pursuant to the intimation for the interview-cum-personality test, the petitioner appeared on 8th September, 2010. Thereafter in the month of September, 2011 the petitioner received an offer of employment, after successfully qualifying the test and interview, with the instruction to report to respondent No. 3, CRPF on or before 12th October, 2011.

5. According to the petitioner on 28th September, 2011 after completion of 8 years and 3 months of service he sent an application to the Air Officer Commanding/AF Station 33 wing C/O 56 APO for issuance of discharge certificate. On the application of the petitioner seeking discharge the Section Commander remarked that the petitioner had not sought permission before applying for the post of Assistant Commandant, however the application for discharge was forwarded to the higher authority for sympathetic consideration. Thereafter according to the petitioner the discharge certificate was not issued to the petitioner nor did the petitioner receive any communication from the respondents declining the issuance of the discharge certificate or issuing any discharge certificate. The endorsement made by the Section Commander on the request of the petitioner for the issuance of the discharge certificate is as under:-

Indl. has not sought permission to apply in the part dt. 7 Wg Forwarded for sympathetic consideration.

(N Chandrasekhar)

Gp Capt San

Cdr M & A Sqn.

6. The petitioner, thereafter, filed the present writ petition seeking directions to the respondents to issue a discharge certificate to him and has also sought directions to respondent No. 3 to hold in abeyance the post of Assistant Commandant that has been offered to him by letter of appointment dated September, 2011. The petitioner relied on the judgment dated 16th December, 2008 in W.P. (C) No. 8760/2008 titled as "Pradeep Kumar v. Union of India & Ors."; judgment dated 21st October, 2009 in W.P. (C) No. 9088/2008 titled as "Cpl N.K. Jakhar v. Union of India & Ors."; judgment dated 30th November, 2009 in W.P. (C) No. 1342/2009 titled as "Praveen Kumar v. Union of India & Ors."; judgment dated 28th July, 2010 in W.P. (C) No. 3257/2010 titled as "Charan Singh Bhanvariya v. Union of India & Ors."; judgment dated 2nd February, 2011 in W.P. (C) No. 722/2010 titled as "Sgt.Gedela Yugandhar v. Union of India & Ors."; judgment dated 2nd February, 2011 in W.P. (C) No. 7482/2010 titled as "Abhishek Kumar Singh v. Union of India & Ors."; judgment dated 3rd February, 2011 in W.P. (C) No. 505/2011 titled as "Brajesh Jaiswal v. Union of India & Ors." and judgment dated 18th May, 2011 in W.P. (C) No. 3024/2011 titled as "Vikram Singh v. Union of India & Ors." to contend that though the petitioner had not applied through the proper channel, however, applying through the proper channel relates to a procedural law and not to the substantive law and unless otherwise mandated by the language of a procedural law, there is no scope to interpret a rule governing a procedure as mandatory and the rule has to be read relating to procedure as directory and not mandatory. Reliance was also placed on Cpl. N.K. Jhakkar (supra) The petitioner contended that according to the letter and spirit of the appointment letter which had been issued to him at the time of joining, the petitioner was permitted to apply for a Class I Government job and he was given the option to seek better future prospects and avenues as available to him. The petitioner also contended that the only remark put on his application seeking the discharge certificate is that he did not seek permission and had not completed 7 years of service at the time of applying for the post of Assistant Commandant in CRPF. Relying on the precedent referred to in the petition it was contended that the Courts have already held that the release of an Airman should be after 7 years from the Air Force and the principle requirement that such an Airman should have completed 7 years at the time of applying was not accepted. Petitioner contended that his appointment with respondent No. 3 will be as an officer in Group A service as against the post of Airman in the Air Force. The petitioner also further asserted that not discharging him from the Air Force would cause grave prejudice and injustice to him.

7. The writ petition has been contested by respondent Nos.1 & 2 contending inter-alia that the petitioner had not complied with the procedure enumerated in Air Force order 14/08 as he had directly forwarded his application for the said post without having completed the mandatory period of 7 years and without seeking permission from the competent authority. It was contended that on these grounds the application dated 28th September, 2011 was not recommended and was returned to the petitioner on the same date with the

advice to resubmit the same, duly rectified, for consideration along with the required documents. According to respondent Nos.1 & 2 the petitioner did not resubmit the application and proceeded on 29 days of annual leave and since he did not resubmit the application for discharge certificate, the matter could not be taken up for issuance of a No Objection Certificate. Therefore, the present writ petition has been filed without exhausting the remedy through the proper channel. It was categorically contended that the petitioner had appeared for the written test for the post of Assistant Commandant with respondent No. 3 on 11th October, 2009 without permission as he had put up only 6 years and 4 months service whereas 7 years of mandatory service is required. The respondent Nos.1 & 2 also asserted that the issuance of the NOC is solely a matter of privilege and cannot be claimed as a right. Since the counter affidavit was filed on 4th November, 2011 it was also asserted that the petitioner had sought the discharge from the service on or before 12th October, 2011 and, therefore, the petition has become infructuous.

8. The allegations made by the respondent Nos.1 & 2 were refuted by the petitioner who filed a rejoinder dated 25th November, 2011 contending inter-alia that the policy of the Air Force is salutary and a beneficial policy and, therefore, it has to be construed liberally. Therefore, solely on the ground that the petitioner had appeared without permission for the examination to the post of Assistant Commandant and also that on the date of appearing for the written examination he had not completed 7 years of service is not relevant as what is required is that at the time of consideration and issuance of the discharge certificate the petitioner should have completed 7 years of service. The petitioner also asserted that the post of Assistant Commandant is a higher post and that the scale of pay is as per the discharge policy of the respondents and therefore, he is entitled for the issuance of the discharge certificate to join as an Assistant Commandant with respondent No. 3.

9. Regarding the allegation of respondent Nos. 1 & 2 that the application dated 28th September, 2011 seeking permission for discharge was returned to the petitioner, it was emphatically denied. The petitioner contended that neither the application was returned to the petitioner nor was the petitioner informed regarding the insufficient documents or told to resubmit the documents along with the requisite annexures. The application of the petitioner was left with the remarks and recommendation of the Group Captain dated 28th September, 2011 and nothing had been disclosed to prove the allegation that the application was considered by the higher authorities and was thereafter declined or that the order was passed to return the application to the petitioner for resubmission.

10. The respondent No. 3, Central Reserve Police Force also filed a reply to the show cause notice dated 9th November, 2011 contending inter-alia that the provisional offer of appointment was issued in favour of the petitioner by letter dated 10th September, 2011 subsequent to the successful completion of the "CPF (AC)" Examination, 2009. The petitioner was allocated to the Central

Reserve Police Force by the Ministry of Home Affairs. The provisional letter of appointment directed the petitioner to report to the CRPF Academy, Kadarapur, Gurgaon, Haryana on or before 12th October, 2011 to undergo training as per instructions contained in Government of India, Ministry of Home Affairs O.M No. 1-4502/69/97-PERS-1 dated 28th August, 1997. The said O.M relates to grant of extension in joining time to the candidates" selection for the post of AC (GD) in BSF/CRPF/ITBP on the basis of SSB selection. The relevant O.M dated 28th August, 1997 is as under:-

Subject: Requests for extension in joining time received from candidates selected for Assistant Commandant (GD) in BSF/CRPF/ITBP.

Sir,

1. The issue relating to grant of extension in joining time etc. to the candidates selected for the post of AC(GD) in BSF/CRPF/ITBP on the basis of SSB selection has been considered.

2. Candidates selected for the post of AC(GD) in BSF/CRPF/ITBP will be issued offers of appointment with instructions to report at the concerned Training Academy on specific date. The candidates who report for joining on or before the specified date as also the candidates who report for joining within four weeks of the specified date may be allowed to join for training.

3. In respect of other candidates who seek extension in joining time in excess of 4 weeks, they may be allowed to join with the next training batch. However in such cases their seniority will be depressed as per the provisions of DOP&T OM No. 9/23/71-Estt "D" dated 6.6.1978 (published in Swamy's Establishment & Administration Manual).

11. In the circumstances, respondent No. 3 categorically contended that the candidates who report to training on or before the specified date as also the candidates who report for joining within four weeks of the specified date, can also be allowed to join for training. It was further asserted that the candidates who seek extension in joining time in excess of four weeks can be allowed to join with the next training batch. According to respondent No. 3 basic training for DAGO's 43rd Batch has already commenced with effect from 12th October, 2011 and the petitioner can be allowed to join the basic training till 9th November, 2011. In the alternative the respondent No. 3 contended that the petitioner can undertake basic training with the next batch as and when it is scheduled subject to his release by the Indian Air Force. It was also disclosed that the second phase of training of the DAGO" s 43rd batch is scheduled to commence on 12th January, 2012.

12. The respondent No. 3 also qualified that in the event of the petitioner seeking extension and joining the second batch, it would be incumbent upon the petitioner to submit a specific request justifying the extension sought and the competent authority after examining the issue shall pass appropriate orders. The

seniority of the candidates who join in the second batch, however, will be depressed as per the provisions of DOP&T O.M No. 9/23/71-Estt."D" dated 6th June, 1978. The pleas raised by respondent No. 3 in para 3 of the preliminary submission are as under:-

3. It is respectfully submitted that candidates who report for training on or before the specified date, as also the candidates who report for joining within 04 weeks of the specified date can also be allowed to join for training. Besides the above, the candidates who seek extension in joining time in excess of 04 weeks can be allowed to join with the next training batch. In the present case the basic training for DAGO"HS 43rd batch has already commenced with effect from 12.10.2011 and the petitioner can be allowed to join the basic training till 09.11.2011, i.e., within 04 weeks of commencement of training. In the alternate the petitioner has to undergo basic training with the next batch as and when it is scheduled subject to his release by the Indian Air Force. It is also pertinent to mention that the second phase of training of the 43rd batch DAGOS is scheduled to commence on 12.01.2012. In the event of the petitioner seeking extension and joining the second batch, it would incumbent upon the petitioner to submit specified request justifying the extension sought and the competent authority after examining the issue shall pass appropriate orders. It is further clarified that seniority of candidates who join in second batch will be depressed as per the provisions of DOP&T OM No. 9/23/71-Estt. "D" dated 06.06.1978.

13. The respondent No. 3 also contended that the vacancy cannot be kept indefinitely and in the event of the petitioner failing to join the next batch of training after due clearance from the Indian Air Force, the respondent No. 3 would have to carry forward the vacancy next year.

14. Since the respondent Nos.1 & 2 had also raised the objections that the petitioner had not filed the certificate of undertaking that he would not seek cancellation of discharge under any circumstance once approval of his discharge by the competent authority is given; certificate by the concerned adjutant that no ROG application or interview with higher authority is held up/in progress in respect of the petitioner; undertaking by the petitioner that he is seeking to struck off the strength from the service immediately after the approval of his discharge application and it may take 6 to 12 months for sanctioning of pension/gratuity after the date of SOS and that the petitioner shall not make any representation against delay in sanctioning of his pension/gratuity; an undertaking by the petitioner that he has not undertaken any course of instruction within country/abroad or posting/deputation abroad or promoted in Grade III and that he has not qualified as NIS coach or any other course/qualification which imposes obligation upon him to serve in IAF for a specific period and that he has completed the prescribed obligatory period after undertaking or on promotion in Grade III. The respondent Nos.1 & 2 had also raised an objection that the petitioner had not filed a certificate for recovery of loan taken through service sources stipulating as to what amount of loan is

outstanding against him and that on approval of discharge from the service he will pay the loan amounts in the manner prescribed by the competent authority.

15. The petitioner, therefore, filed an affidavit dated 29th November, 2011 wherein he categorically deposed and undertook that the remaining amount of loan out of the sum of Rs. 2,45,000/- which the petitioner had taken in 2008 from the respondents will be paid back to respondent Nos.1 & 2 within a week of the issuance of the order of discharge by the respondent Air Force. The petitioner also undertook that during his tenure in the Air Force since June, 2003 he has not undertaken any course of instruction within the country/abroad or posting/deputation or promoted in Group III nor had he qualified as an NIS coach or any other course/qualification imposing an obligation upon him to serve in the Indian Air Force for a specified period. The petitioner also undertook not to seek cancellation of discharge under any circumstance once the discharge is given by the competent authority after the order of this Court. The petitioner also agreed that after his discharge the sanctioning of pension/gratuity may take 6 to 12 months after the date of SOS. The undertakings given by the petitioner in his affidavit dated 29th November, 2011 are as under:-

3. I undertake that the remaining amount of loan, out of the sum of Rs. 2,45,000/- (Rupees two lacs Forty Five Thousand only) which I had taken in 2008 from the Respondents, will be paid back to the Respondent by me within a week of the order of discharge from the Respondent Air Force.

4. I say that during my tenure in the Air Force since June, 2003, I have not undergone any course of instruction within country/abroad or posting/deputation abroad or promoted in Grade-III and that I have not qualified as NIS Coach or any other course/qualification which imposes obligation upon me to serve in the Indian Air Force for a specific period.

5. I undertake that I will not ask for cancellation of discharge under any circumstance once discharge is given by the competent authority after the order of this Hon"ble Court.

6. I also undertake that since I am seeking to be struck off the strength from the service immediately after the order of discharge, and the sanctioning of pension/gratuity may take six to 12 months after the date of SOS. I will not make any representation against the delay in the sanctioning of my pension/gratuity.

The respondent nos. 1 & 2 did not refute the affidavit filed by the petitioner nor pointed out any defect in the undertaking given by the petitioner nor disclosed any reason for not accepting the undertakings given by the petitioner. The respondent nos. 1 & 2 have not raised any plea that the undertakings given by the petitioner are not in consonance with the undertakings which the petitioner had to file along with application seeking discharge certificate. With these undertakings of the petitioner, the only objections of the respondent nos.1 & 2 are that the application was not filed through proper channel and at the time the petitioner had applied for the post of Assistant Commandant, he had not

completed 7 years of service with Air Force.

16. This Court has heard the learned counsel for the parties in detail. The plea of the learned counsel for the respondent Nos.1 & 2 that the petitioner is not entitled for issuance of the discharge certificate as the petitioner had not submitted his application for the post of Assistant Commandant in the CRPF through proper channels and that he had not completed 7 years of service while applying for the said post cannot be accepted in view of various pronouncements of this Court. In *Pradeep Kumar (supra)* a Division Bench of this Court had held that the policy of release of Airman after completion of 7 years of service is with the object of furthering career prospects. A special import is attached to Group A (Class I) post because it provides for a jump in the stature and the career prospects of an Airman. The Court had held that in the instant case though the application was made before completion of 7 years of service but the application was forwarded by the Unit in its wisdom or the lack of it. The Court also observed that problem would arise if the Airman in pursuance to the selection is released before he completes 7 years of service. Since the release of the petitioner from the service would be after 7 years of the service, therefore, on the ground that at the time of applying for a group 'A' post, the Airman had not completed 7 years of service will not be detrimental to his right to get a discharge certificate. Referring to the grounds on which the discharge certificate can be issued in terms of the policies in the various Air Force orders, the Court held that an Airman being appointed as an Assistant Commandant in BSF, a paramilitary organization cannot be ignored easily. The movement from Air Force to BSF where an Airman will be an officer in Group A service as against the post of an Airman in the Air Force would satisfy the test of compassionate ground laid down in the policy.

17. In the case of the petitioner he had applied for discharge certificate on 28th September, 2011 and the petitioner had already completed 7 years of service while seeking the discharge certificate. In view of the law laid down by this Court in various cases cited hereinabove, the respondent Nos.1 & 2 cannot insist that the petitioner should have completed 7 years of service on the date he applied for appearing for the selection to the post of Assistant Commandant.

18. The objection of respondent Nos.1 & 2 that the petitioner had not applied through the proper channel also cannot be accepted in view of the law laid down in *Cpl.N.K.Jhakkar (Supra)*. A Division Bench of this Court had held that not applying through proper channel relates to a procedure of law and not to the substantive law. It was further held that unless otherwise mandated by the language of procedural law, the rule has to be interpreted as directory and not mandatory especially as the policy of release is a statutory policy and a beneficial policy. Such a policy must be construed liberally. Consequently in the case of the petitioner also, even though the petitioner did not apply through the proper channel which is not mandatory and on this ground alone the petitioner cannot be denied the discharge certificate by the respondent Nos.1 & 2. In *Sgt. Sachin*

Kumar Pravin v. Union of India & Ors., 2008 IV AD (Delhi) 303 it was held that the grant of no objection certificate and discharge certificate is in the nature of privilege and not a right and the crucial date when the right would be vested in the Airman would be the date the request for the NOC is considered on the basis of the interview called.

19. The plea of the respondent Nos.1 & 2 that the application for discharge certificate had been returned to the petitioner also cannot be accepted in the present facts and circumstances. The application seeking discharge was filed on 28th September, 2011 and on the same date it was forwarded by Group Captain (Section Commander) for sympathetic consideration. Though the respondent Nos.1 & 2 have contended that it was returned to the petitioner on the same date, however, nothing has been produced to show that the same had been returned on the same date. It is incomprehensible as to why an application would be returned without obtaining the signature or some sort of endorsement from the petitioner, that his application is being returned to him. The respondent Nos.1 & 2 have also not disclosed as to who had considered the application pursuant to the remarks by the Section Commander on 28th September, 2011. Had the application been returned to the petitioner, there would have been reason for the petitioner not to have resubmitted the same after annexing the certificate of undertakings regarding the fact that he would not ask for cancellation of the discharge under any circumstances, once approval for the discharge is given by the competent authority; that no disciplinary/administrative action is pending against him and no ROG application or interview with higher authority is held up/in progress in respect of him; that on approval of discharge certificate it would take 6 months to 12 months for sanctioning of pension/gratuity; that he has not undertaken any instruction/course or qualification as NIS coach obligating him to not leave the Air Force and serve for a specific period and that the amount of loan would be returned by him in the manner prescribed by the competent authority.

20. Though the plea has been taken by the respondent Nos.1 & 2 that the application was returned as the petitioner had not filed various undertakings as detailed hereinabove and that the application was not submitted through the proper channel and that the petitioner had appeared in the examination for selection for the post of Assistant Commandant before completing 7 years, however, in the application which was allegedly returned no such ground has been mentioned nor have any other order or proceedings been produced by the respondent Nos.1 & 2 which would reflect that the application for seeking discharge was not accepted on account of the grounds as disclosed by respondent Nos.1 & 2 in their reply to the petition. This cannot be disputed by the respondents that when an order is passed on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons. The Apex Court in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, , had held that the orders cannot be supplemented by fresh reasons as otherwise an order bad in the beginning

may, by the time it comes to Court on account of a challenge, get validated by additional grounds brought out later. The Apex Court in para 8 at page 417 had held as under:-

The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, .

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

21. No record has been produced by the respondents that the discharge certificate has been declined to the petitioner on the grounds now taken before this Court in the counter affidavit. In any case as already held hereinabove, the plea that the application was returned to the petitioner by respondent No. 1 cannot be accepted in the facts and circumstances. The undertakings which are sought by the petitioner have been given now in the form of an affidavit which is also produced hereinabove wherein the petitioner has undertaken to return the balance of the loan within one week of the issuance of the discharge certificate. The plea of the respondent No. 1 that the application was not resubmitted cannot be accepted because had the application been returned to the petitioner there was no cogent reason for the petitioner who has been selected for the post of Assistant Commandant with respondent No. 3 not to resubmit the same. The objections regarding not submitting the certificates of undertakings were not such which could not be rectified or not given by the petitioner, had the application been returned to the petitioner.

22. The learned counsel for the respondent nos. 1 & 2 also made a vain attempt to contend that the precedent relied on by the petitioner are distinguishable and the ratio laid down there will not be applicable to the facts and circumstances of the case of the petitioner.

23. The next plea on behalf of the respondent Nos.1 & 2 that issuance of NOC is solely a matter of privilege and cannot be claimed as a right will not negate the entitlement of the petitioner to get discharge certificate from the respondents in the facts and circumstances. The respondent Nos.1 & 2 have half heartedly have also contended that the application has become infructuous as the petitioner could be discharged only upto 12th October, 2011. This plea of the respondents

No. 1 & 2 cannot be accepted in view of specific contention of the respondent No. 3 that the petitioner can even join upto 12.1.2012. The respondent No. 3 has averred, that the petitioner can join the second phase of the joining of the DAGO's 43rd batch scheduled to commence on 12th January, 2012 subject to the seniority of the petitioner being depressed as per the provisions of DOP&T O.M No. 9/23/71-Estt."D" dated 6th June, 1978.

24. In the totality of the facts and circumstances, the inevitable inference is that petitioner fulfils all the requirements and terms and conditions for issuance of discharge certificate to him from the Air Force. In Praveen Kumar (supra) decided by a Division Bench of this Court on 30th November, 2009 in W.P(C) No. 13420/2009 it was held that the decision of the Court in the instant matter would be treated as sufficient authorization in favour of the petitioner of being relieved from the service by the Indian Air Force and consequently the Central Reserve Police Force was directed to accept the joining report submitted by the Airman pursuant to the order passed by this Court and subject to fulfilling the codal formalities.

25. Since the petitioner is entitled for discharge certificate and he is also to join the second phase of training of 43rd batch DOCG which is scheduled to commence on 12th January, 2012, therefore, in the facts and circumstances it will be just and appropriate if the present decision be treated as sufficient authorization in favor of the petitioner of being relieved by the Indian Air Force or a discharge certificate. The petitioner shall also be entitled for direction to the respondent No. 3, Central Reserve Police Force to accept the joining report submitted by the petitioner pursuant to the present order. The petitioner shall, however, fulfill all the codal formalities required in the facts and circumstances and the undertaking given by the petitioner in his affidavit dated 30th November, 2011 is accepted.

26. Therefore, in the totality of the facts and circumstances and for the foregoing reasons the writ petition is allowed. Respondent Nos.1 & 2 are liable to issue the discharge certificate to the petitioner forthwith and considering the facts and circumstances and paucity of time, the order of this Court be treated as sufficient authorization in favour of the petitioner for being relieved from the service of the respondent Nos.1 & 2 and his discharge certificate. The undertakings in the form of the affidavit dated 30th November, 2011 are accepted. The petitioner shall return the balance loan amount of Rs. 2,45,000/- which had been taken by the petitioner in 2008 within two weeks of the order of this Court. The petitioner shall, also fulfill all the codal formalities required in the present facts and circumstances. The respondent No. 3 shall also permit the petitioner to join the second phase of training of the DAGO's 43rd batch scheduled to commence on 12th January, 2012 subject to the seniority of the petitioner being depressed as per the regulations and the respondent No. 3 shall also accept the joining report submitted by the petitioner pursuant to this order of the Court.

27. The pending application of the petitioner is also disposed of in terms of this

order. Considering the facts and circumstances respondent Nos.1 & 2 are also liable to pay a cost of Rs. 5000/- to the petitioner. Cost be paid within four weeks.

28. Copies of this order be given dasti to the parties under the signatures of the Court Master.