

(2012) 11 DEL CK 0072
In the Delhi High Court
Case No : Writ Petition (C) 7249 of 2012

Pramod Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-11-2012

Acts Referred:

Citation : (2012) 11 DEL CK 0072

Hon'ble Judges : Pradeep Nandrajog, J; Manmohan Singh, J

Bench : Division Bench

Advocate : K.K. Rohatgi, for the Appellant; Anil Gautam, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.

WP(C) 7249/2012

1. The grievance in the writ petition is that the Armed Forces Tribunal has gravely erred in not deciding the issue with respect to prayer "B" urged in the writ petition, which reads as under:-

B. Issue a writ of certiorari or any other writ or direction quashing para 7(a)(v) of Army Instructions AI 1/S/80 along with para 27(b) of MS Policy 04580/MS Policy dated 30.5.2000 as amended by 04580/MS Policy dated 18 July 2007 as arbitrary and ultra vires.

But, learned counsel for the petitioner has not been able to show to us any pleading before the Tribunal contained in the Original Application filed where the vires as prayed in the instant writ petition has been questioned.

2. We find that even the relief sought from the Tribunal did not embrace a challenge to the vires of any Army Instruction or MS Policy.

3. In what manner the policy or the instruction was arbitrary and discriminatory has not been pleaded.

4. As regards the plea that whereas some officers in spite of disability are granted extension of service up to 58 years and some are superannuated earlier, suffice would it be to state that by itself the same would not be arbitrary or discriminatory for the reason in the Army, capacity to perform duties on being placed in low medical category is considered on annual review basis and service is extended. Needless to state as one ages, disabilities which heretofore were not serious start assuming aggravated forms and it has to be a case of each individual being considered for extension of service with reference to his personal disability. The writ petition is dismissed in limine but without any order as to costs.

CM No. 18691/2012

Since the writ petition stands disposed of, instant application seeking stay of the impugned order till disposal of the writ petition stands disposed of as infructuous.