

(2007) 04 DEL CK 0056

In the Delhi High Court

Case No : Writ Petition (C) 2988 of 2007

Sailesh Kumar Giri

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-04-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2007) 04 DEL CK 0056

Hon'ble Judges : T.S. Thakur, J;S.N. Aggarwal, J

Bench : Division Bench

Advocate : J.C. Vashistha, for the Appellant; Saroj Bidawat and S.S. Pandey, Dy. JAG, for the Respondent

Final Decision : Dismissed

Judgement

T.S. Thakur, J.—The petitioner was enrolled for recruitment in the Air defense, Artillery Corps of the Indian Army and sent for basic military training to Nasik. He reported at the training centre in September, 2005 where after his basic military training commenced w.e.f. 3rd October, 2005. In terms of Army Headquarter instructions dated 5th July, 1996 and Army Air defense Centre standing operating procedure circulated under No. 1170/11/G2 dated 22nd March, 2005, he appeared in the mandatory Proficiency Aptitude Test on 1st December, 2005 along with the 5 other recruit clerks. The result of the test was compiled by a duly constituted Board of Officers as per the prevalent procedure in which as against 40 per cent marks required to pass the examination, the petitioner could score only 7 marks out of a total of 50 marks. He thus failed in the PAT. He was considered for re-mustering against other trades but found to be ineligible for the same on account of the fact that he did not satisfy the physical standards prescribed for such trades. He was given show cause notice dated 8th February, 2006 to explain as to why he should not be discharged on account of his failure to pass the proficiency aptitude test as required by the standard procedure prescribed for the purpose. He submitted a reply which did not find favor with

the Army authorities resulting in his discharge. Aggrieved, the petitioner preferred an appeal against his discharge which remained pending with the prescribed Appellate Authority with the result that he filed W.P. (C)17051/2006 which was disposed of by a Division Bench of this Court by order dated 17th November, 2006 with the direction that the respondents shall dispose of the appeal within a period of one month from the date of the disposal of the writ petition. In obedience to the said direction the Sena Vayu Raksha Abhilekh, Army Air defense Records has by an order dated 5th December, 2006 dismissed the appeal filed by the petitioner holding that the petitioner having failed in the Proficiency Aptitude Test and also failed to meet the physical standards required for re- mustering against other trades, he could not make any grievance. The present writ petition assails the correctness of the said order in which the petitioner has inter alias prayed for reinstatement in service with full backwages and other consequential benefits.

2. We have heard Mr. Vashistha, learned Counsel for the petitioner and perused the record. It is not in dispute that the petitioner was, under the prevalent recruitment procedures, required to pass the proficiency aptitude test. It is also not in dispute that the petitioner had appeared in the said test but failed to qualify having secured only 7 marks out of a total of 50 marks as against a minimum of 40 per cent prescribed for being declared successful. That being so, the respondents were justified in discharging the petitioner as the basic requirement for his continuance in service viz. passing the Proficiency Aptitude Test was not satisfied. Mr. Vashistha, however argued that the petitioner could be given a second chance to appear and qualify the Proficiency Aptitude Test. We do not think so. If the procedure prescribed and uniformly followed by the Army Authorities envisages only one chance for the candidates to pass the test, there is no reason why a second chance should be added to the same by a writ court. The norms by which the Army authorities make recruitments shall have to be satisfied by those applying for the recruitment unless the norms can themselves be said to be so irrational or arbitrary that the same may amount to denial of equal opportunity guaranteed to the candidates under Article 14 and 16 of the Constitution of India. In as much as the Army Authorities have prescribed only one chance for passing the Proficiency Aptitude Test and uniformly applied that norm and standard to all its recruitments in the concerned discipline, we see no illegality, irrationality or perversity in the same to warrant interference.

3. It was next argued by Mr. Vashistha that the petitioner ought to have been re-mustered against GD or technical trades. The respondents have given a cogent reason why that was not done and pointed out that the petitioner could not be re-mustered on account of his failure to fulfill the physical standards prescribed for such mustering. In particular, the respondents have pointed out that as against a height of 169 cm required for GD and technical trades, the petitioner who was only 164 cm tall was not physically fit for re-mustering. We see no illegality or perversity even in regard to the refusal of the respondents for re-mustering. The submission of Mr. Vashistha that this Court could relax the height requirement by

5 cm has not impressed us. It is not for this Court to prescribe the physical standards required for recruitment against different trades in the Army. These are policy matters with which the court would not be concerned so long as the requirement is not in itself so irrational that no prudent person could possibly countenance the same. The height requirement for any recruitment cannot be said to be an irrelevant or irrational requirement so as to call for any interference by a writ court.

4. There is no merit in this writ petition which fails and is hereby dismissed but in the circumstances without any order as to costs.