
(2022) 05 AFT CK 0023
In the Armed Forces Tribunal
Case No : O.A No. 232 Of 2022

Sub (Hony Capt) Rakesh Kumar Rana (Retd)	APPELLANT
Vs	
Union of India & Ors	RESPONDENT

Date of Decision : 02-05-2022

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 14

Citation : (2022) 05 AFT CK 0023

Hon'ble Judges : Rajendra Menon, Chairperson, (J); P.M. Hariz, Member (A)

Bench : Division Bench

Advocate : B.P. Vaishnav, Rajesh Kumar Das

Final Decision : Disposed Of

Judgement

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act 2007, the applicant has filed this O.A and the reliefs claimed therein read as under:

- (i) Direct the respondents to set aside the cancellation of call up order vide letter No.CA-2/1667/Re-Emp/CU/J-82/04 dt 03.06.2021 by which applicant became ineligible for re-enrolment into DSC;
- (ii) Direct the respondents to allow the applicant to join next re-orientation course in DSC in the interest of justice; and
- (iii) Pass any other or such further order or orders as deemed fit to this Tribunal in order to secure the ends of justice in favour of the applicant.

2. The facts of the case briefly stated are that the applicant was enrolled in the Indian Army on 02.02.1990 and on 29.02.2020, he was released from service in the rank of Subedar. Thereafter, the applicant was selected by his Regt Centre for re-employment in DSC as Sub (GD) vide letter dated 20.03.2021 and advised to report to DSC Centre, Kannur on 30.04.2021 for re-employment in DSC and to attend Re-Orientation Training for JCOs Course Ser No. 1-82 commencing from

02.05.2021 to 12.06.2021. On 24.04.2021, the applicant received a telephonic message from DSC Centre, Kannur that the Re-Orientation Course 1-82, which was scheduled from 02.05.2021 to 12.06.2021 had been postponed till further notice due to Covid-19 and directed not to report to the DSC Centre till further orders. Thereafter, the applicant was shocked when he got the cancellation of call up order due to overage for re-enrolment of Ex JCOs into DSC (1-82 Course). On 14.10.2021, the applicant filed W.P (C) No.6488 of 2021 before the High Court of Himachal Pradesh at Shimla. The Hon'ble High Court disposed of the said writ petition granting liberty to the applicant to approach the competent authority/Tribunal for redressal of his grievance. The applicant has thus approached this Tribunal by filing the present O.A seeking the aforesaid reliefs. In support of his case, he also relied upon the decision of this Tribunal in Sub Adyanath Ghosh (Retd) v. Union of India and others (O.A No. 1051 of 2021 decided on 01.09.2021).

3. The issue of cancelling the re-employment of a person with regard to second engagement in the DSC and the disqualification on account of reasons beyond the control of the employee due to Covid-19 pandemic has been the subject matter of consideration of this Tribunal in the case of Adyanath Ghosh (supra), wherein the issue was discussed in detail in the following manner:

3. Considering the fact that the only objection raised by the respondents in the counter affidavit is that the applicant was over age and, therefore, he cannot be permitted to participate in the course, we find that the applicant became over age because of reasons beyond his control which were cancellation of the first examination and the pandemic of CO Vii? 2019 which adversely affected certain rights of the applicant in the manner of postponement of course and thereby making him ineligible. There being extra ordinary situation in the matter, the respondents should have risen to the occasion by exercising their discretion, which, prima facie, they have not done.

4. Taking note of the aforesaid, we direct that subject to final decision of this OA, the respondents shall permit the applicant to participate in the course commencing from 2gh September, 2021, Taking note of the aforesaid principle and the objection raised by the respondents that at the time when the course was actually commenced, the applicant became over age, which issue already stands concluded by the decision in the case of Adyanath Ghosh (supra), the applicant is entitled to participate in the next course to be commenced.

4. In these circumstances, the impugned order dated 03.06.2021 is quashed and the respondents are directed to permit the applicant to participate in the next Re-Orientation Training JCOs Course to be commenced. Accordingly, the O.A stands disposed of, without any order as to costs.

5. At this stage, learned counsel for the respondents made an oral prayer seeking leave to appeal to the Hon'ble Supreme Court. As there is no point of law

of general public importance involved in this decision, the said oral prayer is rejected.