

(2021) 08 DEL CK 0198

In the Delhi High Court

Case No : Civil Writ Petition No. 8887 Of 2021, Civil Miscellaneous No. 27620-21 Of 2021

Vikrant Singh Kund

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 24-08-2021

Acts Referred:

Citation : (2021) 08 DEL CK 0198

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Pushpendra Kumar Dhaka, Harish Vaidyanathan, Bushra Kazim

Final Decision : Dismissed

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the remark of moral turpitude against the petitioner passed by the Respondent-Army vide letter dated 25th May 2017 on the ground that it was illegal, disproportionate, and unduly harsh. Petitioner seeks modification of the withdrawal letter dated 25th October 2017 as withdrawal simplicitor without adversely affecting the future selection in Armed Forces. Petitioner also seeks direction to the Respondents to allow the Petitioner to apply for Combined Defence Services Written Examination to participate in the future selection processes of the Armed Forces, subject to the outcome of this Writ Petition.
3. Learned counsel for the Petitioner states that the Petitioner was imposed with multiple penalties i.e. relegation from the original course to junior course and again by terminating his training. He emphasises that in the termination order, the word "Moral Turpitude" is so loosely used that it closes all the doors of a decent career for the Petitioner in all the defence academies.

4. He states that during the first term of training, the Petitioner was subjected to high handedness by some of his senior cadets to which the Petitioner objected and therefore, some senior cadets developed animosity towards the Petitioner. He contends that due to revenge some allegations were levelled against the Petitioner such as using some other cadet's cycle by changing the cycle number, and altering the medical prescription slips to obtain one day's extra rest etc. He states that even though the Petitioner was already relegated to repeat the first semester exam, he was called to sit in the Arabic final examination for the first term for the sake of formality and did not realise that a book on the subject was already kept on the Petitioner's desk. He emphasises that even though it was later found that the book did not belong to the Petitioner, the Petitioner was charged with attempting to copy.

5. Per contra, learned counsel for the respondents who appears on an advance notice states that the present writ petition is an abuse of process of court as an earlier writ petition filed by the petitioner seeking the same reliefs had been withdrawn by the petitioner without any leave or liberty.

6. Having perused the paper book, this Court is of the view that the petition involves unverifiable or at least disputed questions of facts inasmuch as it levels allegations against some senior cadets without naming or impleading them. Such a vague and general writ petition cannot be entertained and that too after a gap of more than four years, inasmuch as all the impugned orders had been passed in May 2017.

7. This Court is also of the view that it cannot be a coincidence that the petitioner was involved in four serious misdemeanours i.e. forging category slip, obliterating bike number, stealing thin client of another cadet and obliterating its serial number as well as using unfair means in a semester exam. Keeping in view the aforesaid as well as the relegation letter dated 16th May, 2017 and letter dated 25th May, 2017 withdrawing the petitioner on disciplinary grounds, this Court is of the view that it would not be appropriate to permit the petitioner in writ jurisdiction to participate in future selection process of Armed Forces.

8. This Court is also in agreement with the contention of learned counsel for the respondents that the present petition is an abuse of the processes of Court inasmuch as the petitioner withdrew the earlier writ petition to avail alternate remedy, if any, however, has again filed the present petition seeking similar relief as sought in the earlier petition.

9. Accordingly, the present writ petition being bereft of merits is dismissed.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.