

**COURT NO. 3,
ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**T.A. No. 328 of 2009
(Delhi High Court W.P (C) No. 4097 of 1997)**

IN THE MATTER OF:

Ex Rect Dharam Pal

.....Applicant

Through Mr. J.K. Nayyar, counsel for the applicant

Versus

Union of India and Others

.....Respondents

Through: Ms Saroj Bidawat, counsel for respondents

CORAM :

**HON'BLE JUSTICE MANAK MOHTA, JUDICIAL MEMBER,
HON'BLE LT GEN Z.U.SHAH, ADMINISTRATIVE MEMBER**

Order

Date: 5-4-2010

1. The applicant filed a writ petition (civil) No. 4097 of 1997 in the Hon'ble Delhi high Court to consider him for re-enrolment in Defence

Security Corps (DSC). The same was transferred to the Armed Forces Tribunal.

2. The applicant was enrolled in the Army on 10.3.1984 and was sent for recruit training to 2 Signal Training Centre (2 STC) from where he was discharged on 6.12.1986 under Army Rule 13 (3) III (v) “**Services no longer required**” for failing to pass Signals Electronic subject. The applicant states that between 1987 to 1994 he attempted unsuccessfully to get his service documents from Army Authorities. On 31.1.1995 his counsel sent a legal notice for the same. Army Headquarters vide letter dated 31.3.1995 replied to the same intimating that the applicant, despite additional chances, had failed to qualify in Class 3 in the signals trade and was therefore discharged from service.

3. On 16.8.1995 the applicant, through his counsel, applied for issue of discharge book. The same was forwarded by Army Headquarter on 24.11.1995. On 3.1.1996 the counsel of the applicant sent another legal notice to the respondents for issue of his discharge order. Army Headquarters vide their letter dated 12.1.1996 replied that recruits discharged for “**Services no longer required**” are discharged on the

discharge roll and discharge book is accordingly issued by Signals Records. No separate discharge order is prepared/ issued.

4. On 7.6.1997 the applicant sent an application for enrolment in the Defence Security Corps. The Directorate of DSC rejected his application vide order dated 1.7.1999 on the grounds that eligibility condition for re-enrolment in DSC is minimum five years previous service with Army/ Navy / Air Force. The applicant did not fulfil this prescribed criteria for re-enrolment in the DSC. The applicant contends this stipulation of minimum five years previous Army/ Navy/ Air Force service is illegal and can be relaxed by the competent authority as the stipulation is not statutory.

5. The applicant contends that since he had completed his basic military training and had only failed in technical training he should be given an alternative appointment in the Army where technical training is not required.

6. The applicant contends that now he has become overage for seeking government service and his non reenrolment is violation of

Article 21 of the Constitution of India. He has prayed that order dated 1.7.1997 be quashed and an order be passed relaxing the five years minimum qualifying service in the Armed Forces for reenrolment in the DSC. His application for reenrolment in DSC be considered.

7. The counter reply was not filed. The matter is exactly same as in the case of Ex Rect Jaibir Singh TA No. 368 of 2009. Wherein the respondents in their counter affidavit had stated that the applicant was enrolled in the Army on 10.3.1984 and discharged on 6.12.1986 under Army Rule 13 (3) Item III (v) “**Services no longer required**” for not passing mandatory Technical Trade Test Class III despite being given additional chances. A show cause notice was issued on 23.9.1986 and the applicant was discharged after rendering two years and 270 days colour service. The applicant could not qualify in all the requisite military training examinations and was therefore ineligible for reenrolment in DSC. As per Govt of India Ministry of Defence policy letter No. 65730/DSC-2/390-C/D(GS-iv) dated 15.12.1985 as amended vide letter No. 65730/DSC-2/295/D (Mov) 94 dated 3.2.1994 and Army Headquarter letter No. A/04236/Rtg 5 (OR) dated 27.1.1995 ex-service personnel should have rendered minimum five years qualifying colour

service to be eligible for enrolment in DSC (Annexure A). Personnel discharged from service due to “**Services no longer required**” and also not eligible for re-enrolment into DSC as per administrative instructions issued vide Army Headquarters letter No. A/04236/Rtg 5 (OR) dated 27.1.1995 (Annexure B). The applicant thus did not meet two conditions for reenrolment. There is also no provision for relaxation of the conditions of reenrolment into DSC.

8. The applicant had submitted his petition after a delay of more than ten years after his discharge and the same is liable to be dismissed for long delay and latches.

9. During the arguments it was prayed by the respondents that the case rested purely on the guidelines issued for reenrolment in DSC. This position has been dealt at length in similar situation in case of Ex Rect Jaibir Singh in TA No. 368 of 2009 in this Tribunal.

10. We have perused the records and heard the arguments at length. The applicant does not meet the mandatory requirement of having rendered minimum five years of service in the Armed Forces to qualify

for reenrolment in DSC. He was also not eligible as he was dismissed under clause “**Services no longer required**”. This order was not under challenge. The mandatory conditions of Policy letter dated 27.1.1995 is quoted

“ **Eligibility**

(a)

(b) *Should have rendered minimum 5 years colour service in the Army/ Navy/ Air Force or 3 years embodied service in case of Ex-TA personnel with minimum attendance of 7 Annual Training Camps. The period of 5 years/ 3 years in respect Ex-TA personnel will be counted till the date the Ex-serviceman*

(c) *To (e)*

(f) *Should not have been dismissed from Military Service. Personnel discharged from service under AR 13 (3) item III (v) for the following reasons are not eligible for re-enrolment into DSC: -*

(i) *Services no longer required (except where discharged under surplus to the establishment).”*

On the basis of aforesaid facts and guidelines for reenrolment to Defence Security Corps the applicant is not entitled for any relief. There is also

no provision for relaxing the basic requirement of qualifying period of five years, for reenrolment in DSC. Application is dismissed. No costs.

MANAK MOHTA
(Judicial Member)

Z.U. SHAH
(Administrative Member)

Announced in the open court
Dated: 5-4-2010