

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

14.

O.A. No. 211 of 2010

Ex Sepoy Jagdish Chand

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.S Pandey, Advocate

For respondents: Mr. Ankur Chhibber, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

16.11.2011

The petitioner by this petition has prayed to quash the order dated 12.10.2007 and direct the respondents to reinstate him in service with all consequential benefits, including full back wages, continuity of service, seniority, promotion, etc.

The petitioner was discharged from Army Service on 01.11.2001. The petitioner applied for re-enrolment in DSC service on 27.05.2003 and the recruiting officer sent a call letter on 26.10.2006 for re-enrolment into DSC. On 04.11.2006 the petitioner appeared for physical screening and he was enrolled in DSC on 29.12.2006. After successful completion of reorientation training the petitioner was posted to Naval Store Depot, Mankhurd, Mumbai on 19.04.2007. It is alleged that discharge order of the petitioner was issued

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on 12.10.2007 which is unjustified because the period of five years is to be calculated from the date of discharge from former service till the applicant offer himself for re-enrolment in DSC service not actual re-enrolment.

The petitioner was served with show cause notice on 25.04.2008 on the ground that he was re-enrolled in DSC after five years of his retirement from previous service. After that petitioner filed a representation. He was discharged from service on 11.06.2008 ignoring his representation. Hence, petitioner has filed this petition seeking quashing of order dated 11.06.2008 and quashing the clarification issued vide letter dated 12.10.2007.

The recruitment to DSC started in 1985 as per the eligibility conditions laid down in the letter issued on 15.12.1985. Thereafter corrigendum was issued on 14.08.1987 and thereafter a clarification letter was issued on dated 27.10.2006. As per this clarification there are two stages. Stage I is the stage where the candidate registers himself for re-enrolment into DSC at the ZRO/ARO/Regt. Centres. The act of registering the name indicates his willingness/availability for enrolment into DSC as and when vacancies are made available to the Rtg Org/Regt. Centres. Stage II is, depending upon the vacancies allotted to ZRO/ARO/Regt Centres, the candidates as per the seniority maintained in the register during stage 1 are intimated to report to the Rtg Agencies for physical and medical tests. Therefore, a reading of these

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three documents makes it clear that the period of five years will be counted from the date of discharge till he is called by the recruiting organisation for the enrolment.

The clarification letter dated 27.10.2006 is reproduced as under:

62502/Rtg 5 (OR) (A)

27 Oct 2006

All HQ Rtg Zones/IRO Delhi Cantt
All Regt/Corps Trg Centres

1. Reference

- (a) Our letter no. 62502/Rtg 5 (OR) (A) dt 09 Apr 2002
- (b) Our letter no. 62502/Rtg 5 (OR) (A) dt 21 Nov 2002
- (c) Our letter no. 62502/Rtg 5 (OR) (A) dt 13 Jun 2003
- (d) Our letter no. 62502/Rtg 5 (OR) (A) dt 22 Jan 2004
- (e) Our letter no. 62502/Rtg 5 (OR) (A) dt 19 Feb 2004

2. Certain Rtg Agencies have raised query with regards to the cut off date for determination of age for re-enrolment into the DSC.

3. The following is clarified. An Ex-Serviceman undergoes following stages with the Rtg Org/Rtg Centres before enrolment:-

- (a) Stage I : This is the stage where the candidate registers himself for re-enrolment into DSC at the ZRO/ARO/Regt. Centres. The act of registering the name indicates his willingness/availability for enrolment into DSC as and when vacancies are made available to the Rtg Org/Regt. Centres.

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(b) Stage II : Depending upon the vacancies allotted to ZRO/ARO/Regt Centres, the candidates as per the seniority maintained in the register during stage 1 are intimated to report to the Rtg Agencies for physical and medical tests. Therefore it is the day the ex-service person reports to the Rtg organisation bases on the call letter is the day he is considered to have reported for enrolment. Therefore, reading of these three documents makes it clear that the period of five years will be counted from the date of discharge till he is called by the recruiting organisation for the enrolment.

4. Para 2 (b) is very evident in this HQ letter no. 62502/ Rtg 5 (OR) (A) dt 09 Apr 2002, Note 3 under para 7 of Appx. B.
5. The Rtg Agencies are once again requested to go through the policies in detail prior to raising of any queries.

The contents of this letter may please be disseminated to all concerned under your jurisdiction.

(Virendra Singh)
Col
Dir Rtg OR
for Adjutant General

As per this circular, period of five years will be counted from the date of discharge till he is called by the recruiting organisation for the enrolment. As

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per the facts it is clear that petitioner was discharged on 01.11.2001 and he reported to the recruitment organisation in 2006 i.e. beyond period of five years i.e. 04.11.2006. Therefore, a Show Cause notice was given to him and he was discharged from service. Since this order dated 27.10.2006 is the last clarification and the recruiting agencies have to follow this order and any one act contrary to such clarification will call for disciplinary action.

There is a clear stipulation of five years from the date of discharge till he reports back to the enrolment agency. In the earlier case, we have made an observation that proper explanation should be called for from those recruiting officers who do not adhere to the circulars.

In the present case, petitioner has reported for recruitment after five years. We do not find any merits in this petition. Hence, petition dismissed.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
November 16, 2011