

COURT No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 259 of 2020**

Tuesday, this the 24th day of May, 2022

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

EA (P) SS/APP Rameshwar Singh (507204-N) S/o Shri Ramesh Chand, R/o Vill-Gopalpur, PO-Kosi, Dist- Mathura, U.P. -81005.

..... Applicant

Learned counsel for the Applicant : **Shri Puru Mudgal and**
Wg. Cdr. Ajit Kakkar (Retd),
Advocate

Versus

1. Union of India through Secretary Ministry of Defence DHQ Po- New Delhi 110011.
2. The Chief of the Naval Staff, IHQ MoD (Navy) 108, Talkatora Stadium Avenue, New Delhi-11001.
3. HQs Southern Naval Command Training Division, Naval Base. Kochi-682004.
4. The Commodore Bureau of sailors Cheetah Camp, Mankhurd, Mumbai-400088.

.....Respondents

Learned counsel for the Respondents. : **Shri Asheesh Agnihotri,**
Central Govt. Counsel

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

(a) To direct the respondents to produce all relevant records of the applicant, the enrolment forms, declaration and including the recruitment rules etc.

(b) To set aside the impugned orders/letters dated 24.06.2020 and 10.07.2020 and reinstate the Applicant in the Indian Navy.

(c) To direct the respondents to allow him to continue in training with additional chance alternatively grant him Non-Tech trade.

(d) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.

2. Brief facts of the case are that the applicant was enrolled in the Indian Navy on 01.09.2018 as a sailor in Tech Trade. Applicant successfully completed his basic training. He was relegated from MEAT-25 to MEAT-26 course due to his poor performance in technical subjects. After availing repeated chances, he could not clear technical trade test. He was discharged from service on 10.07.2020 on academic ground. It is in this perspective that this O.A. has been filed by the applicant for re-instatement in service.

3. Learned counsel for the applicant submitted that applicant was enrolled in Indian Navy after fulfilling all requisite conditions of enrolment on 01.09.2018 as a sailor in tech trade. The applicant had difficulty in understanding English and due to same, he could not qualify MEAT-25 and MEAT 26 course during his training and he was discharged from service without paying any heed to the applicant's request of granting time to improve his academic record. He was discharged from service without following set procedures and without being provided adequate opportunity to improve and he was not considered for other lower trades. Not providing opportunity to re-muster in lower trade after completion of basic training despite being willing to serve in any non technical trade, is against all norms of fair play. The applicant preferred appeal for reinstatement in service but no relief was provided to him. Learned counsel for the applicant submitted that respondents be directed to re-instated the applicant in service.

4. On the other hand, learned Counsel for the respondents submitted that applicant was enrolled in Indian Navy under Artificer Apprentice Scheme, referred to as Merged Entry Artificer Training (MEAT) Course. This is an ab-initio course and grouped under two phases for a period of 130 weeks, viz, Basic Course and professional course. Such Apprentice Artificers are on

probation during the entire period of their training, and subject to discharge from service by the Commanding Officer of the Establishment in which they are borne any time during the period in accordance with the provision of Regulation 278 (4) Regulations Navy Part III. The performance of the trainee at INS Chilka (Basic Training) was average. Subsequently, during his professional course at INS Valsura, the trainee was found 'unsuitable' and was accordingly discharged from service iaw Navy Order (NO) 34/15 and Regulation 278 (4) of Regs Navy Part III. Now the trainee has approached AFT, Lucknow for re-instatement in service.

5. Learned counsel for the respondents submitted that Ex trainee had undergone nine weeks of basic training at INS Chilka from 20 Aug 2018 to 20 Oct 2018. Basic course at Chilka provides trainee an understanding of service rules and regulations, discipline as also ab-initio training on handling of small arms. The individual scored 57.64% wherein he passed basic course by clearing service subject. On completion of INS Chilka phase, he reported to INS Valsura on 05 November 2018 for professional training post completion of afloat training from 22 Oct 2018 to 03 Nov 2018. Professional course for Artificer Trainees at Valsura is conducted for a period of 119 weeks. Professional course is structured to provide in- depth knowledge on technical subjects,

viz electrical, electronics, communication and weapon systems with an aim to achieve the end goal of proficiency in maintaining and repairing technologically diverse and complex electrical, electronics, communication and missile systems onboard Indian Naval warships. The curriculum at Valsura for the Artificer Apprentice is exhaustive which ensures that the trainee is 'well educated' and lives up to the English meaning of the word 'Artificer' of being a 'skilled craftsman' or Mechanic. During term of MEAT 25, ex trainee had scored 57.5% which is considered as average as per Para 4 of NO 34/15. He failed to qualify in three subjects and was given another opportunity to clear these papers. However, he again failed to qualify in re-examinations, thereby rendering him liable for relegation iaw Para 7 (c) of NO 34/15. During B1 term, he once again failed in four subjects i.e. Adv Control Engineering, Basic Ordnance Hydraulics and Optics, Surface Weapons and Embedded System Interface and scored 39% contrary to 55% aggregate to clear the course. Pass mark in each subject is 50% and aggregate should be 55% to clear the course. Mohit Kumar EA (Power) apprentice from MEAT 26 was relegated to MEAT 27 on poor academic performance but he continued to remain in service as he cleared these academic subjects in MEAT 27. Deepak Yadav EA (R) apprentice from MEAT 23 failed only in one subject in A2 term. After availing

opportunity he passed in academics and continued in service. Prashant Kumar EA (Radio) apprentice from MEAT 26 was relegated to MEAT 27 due to poor academic performance and has continued to remain in service as he passed in these subjects in MEAT 27. Vipin Kumar, EA (Power) apprentice from MEAT 26 was relegated to MEAT 27 due to poor academic performance and has continued to remain in service as he passed in these subjects in MEAT 27. Learned counsel for the respondents submitted that applicant was provided ample opportunity as per rules but he could not clear the tech grade test and he was discharged from service. Present O.A. has no force and is liable to be dismissed.

6. We have heard learned counsel of both sides and perused the record. We find that question involved in this case is whether the applicant can be reinstated in service and whether he may be allowed to continue his training by re-mustering him in Non Technical Trade?

7. Regulation 278 (4) of Regs Navy Part III states that, any boy, Artificer Apprentice or man, during probationary service, shall be liable to be discharged as 'Unsuitable' under orders of the authorities herein stated, if his progress or conduct is unsatisfactory:-

(a) *Boys at the Naval Training Establishments- by the Captain of the Training Establishment. In the case of Boys afloat, by the Captain Naval Barracks on the recommendation of the Captain of the ship in which the boy is borne.*

(b) *Artificer Apprentices- by the Captain of the Training Establishment concerned, unless he can be absorbed in any other branch.*

(c) *Direct Entry Sailors- By the Captain of the Training Establishment concerned during the period of training and thereafter by the Captain Naval Barracks.*

8. Further in accordance with Para 7 of Provision of Navy Order 34/15, following points being relevant are reproduced as under:-

(aa) Trainee will be given second chance (reappear to clear the exams) after two weeks of additional training if failed up to two subjects in a term.

(ab) If trainee fails in three or more subjects in a term he is liable for relegation as first warning and will be conjoined with subsequent/ following course.

(ac) Second relegation on academic grounds during the training he is liable for withdrawal from course or discharge from service under Regulation 278 (4) of Regs Navy Part- III.

9. In the instant case, the trainee was relegated first time as he had failed to qualify in three subjects in A2 terms which was conducted from 18 Mar 2019 to 11 May 2019. He was officially

counselled by Divisional Officer, Head of the Department and warned by Training Captain iaw Navy Order 34/15. Thereafter he was conjoined with MEAT 26 in A1 Term on 12 May 2019 and was given adequate opportunity to improve his performance. He was failed in B1 Term. This being second relegation, he was liable for withdrawal from service on academic grounds as 'Unsuitable'.

10. NO 10/18 deals with change of branch/trade for sailors does not have any provision for change of branch of trainee from technical to non technical trade. All actions were promulgated as per rules and trainee was given adequate opportunity to improve. Basic training and professional training is deemed successful only on successful completion of ab-initio training. Until and unless a trainee completes both basic training and technical/ professional training, he is considered a probationer. Before discharge from service a Board was prepared and the Board concluded that the marking of the trainee was fair. The performance of the trainee was poor, and not up to the desired standards.

11. In the instant case, applicant was relegated and was given additional chances to clear in the failed subjects but he could not pass the same. We find that rulings relied upon by the applicant are based on different facts and are of no help to him. It is an

admitted fact that Navy is a combatant force and technical competence for handling sophisticated equipment is necessary for the security of the nation. It cannot afford to have probationers who cannot pass technical subjects during training. The trainee was repeatedly counselled by all levels of the chain, after every instance of his failure and consequences thereof were reiterated during each counselling session. He was accorded additional time and study periods in order to provide ample opportunity for improvement in weak subjects. The applicant had secured 82% in 10+2 with English. During Entry Level Knowledge Test, which is being conducted in English at beginning of the course to assess basic knowledge of newly joined trainees, the ex trainee had scored 05/10 in English which is considered average and satisfactory to follow the instructions imparted (in English) at Valsura. Valsura has been equipped with English language lab. Trainees who are weak at English can utilize this facility to improve their skills. Four language sessions on Monday, Tuesday, Thursday and Friday were scheduled from 1450 hrs to 1630 hrs every week for MEAT 26 trainees to improve their knowledge of English. Details of sessions plotted for following week were published in Enterprise Resource Planning website of Valsura on every Saturday. These schedules were displayed on notice boards of every division, along with other weekly training programme for

information of trainees. Surprisingly, the ex trainee never attended any class for improving his English language. Artificers in the Navy are the backbone for maintenance of the sophisticated combat systems in operational state at all times. Even a minor mistake during the maintenance or lack of adequate technical knowledge in maintenance of combat systems could cause severe damage to the multi crore systems on warships and in turn put the life of other men onboard at risk.

12. In this background and after perusing the details of policies as applicable, we are of the considered opinion that the respondents have been very fair and have given numerous opportunities to the applicant to improve himself at all stages of technical training. Therefore, we do not find any merit in the contention of the learned counsel for the applicant that the applicant's discharge should be set aside and he should be given one more chance to improve himself. We also don't find any merit in the defence that the applicant could not pass technical training due to poor knowledge of English. It is amply clear that the applicant has a long history of poor performance and failures during his technical training.

