

**COURT No.1****ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 258 of 2020**

Tuesday, this the 24<sup>th</sup> day of May, 2022

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

UT (AA) Akash Singh Chahar (507267F, Son of Shivraj Singh Chahar, R/o Garhi Kaliya, Beri Chahar, Kheragarh, Agra, UP-283102.

..... **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-110001.
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 Bipin Kumar Singh,**  
**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 06.02.2019 as a sailor in Tech Trade. Applicant successfully completed his basic training. He was relegated from MEAT-26 to MEAT-27 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 06.02.2019 as a sailor in tech trade. The applicant had difficulty in understanding English and due to same, he could not qualify MEAT-26 and MEAT 27 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 the Hon'ble Supreme Court in the case of ***Olga Tellies Vs Bombay Municipal Corporation***, a five judges bench of the Court held that 'right to livelihood' is borne out of the 'right to life', as no person can live without the means of living, that is, the means of livelihood. The right to livelihood can have an extended meaning to it as it is the most crucial right when it comes to human life and dignity. Under these circumstances if the applicant is discharged from service at this stage he would be left without any means of livelihood and his

family will be deprived of basic needs of food, shelter and clothes. Learned counsel for the applicant submitted that respondents be directed to re-instate the applicant in service.

4. On the other hand, learned Counsel for the respondents submitted that applicant was enrolled in Indian Navy under Artificer Apprenticeship 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 Apprentices 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. On completion of INS Chilka Phase, he reported to INS Valsura on 06.05.2019 for professional training post completion of afloat training at Visakhapatnam. In Professional Training MEAT 26 A1 Phase, pass marks in each subject is 50% and aggregate should be 55% to clear the course. 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 26, ex trainee failed to qualify in four subjects and was given an opportunity to clear these papers but he could not clear the subjects thereby rendering him liable for relegation to Course MEAT 27 on 22.11.2019 under iaw Para 7 (c) of NO 34/15. During professional training in MEAT 27, A1 Phase, applicant once again failed in five subjects i.e. Basic Electronic

Circuits, Electrical Technology, Electrical Measurement, Digital Technology and Basic Control System. Despite focused and special attention from the teaching staff, the applicant did not take interest in clearing the subjects which he had attempted second time during MEAT 27, A1 Phase. He was thus relegated again. This being his second relegation, he was withdrawn from service iaw regulation 278 (4) of Regs Navy Part III (Statutory) and para 7 (f) of NO 34/15 post obtaining approval from Headquarters, Southern Naval Command. Indian Navy is a fighting force mandated to secure the maritime borders of the country and is an Armed Force of the union. Compromising the training and academic standards of the manpower of the Indian Navy may lead to their sub optimal performance and therefore, cannot be accepted. Lack of technical knowledge or sub standard training may lead to undesirable incidents/ accidents at sea. As per rule Artificer Apprentice, during probationary service, are liable to be discharged as 'Unsuitable' under orders of empowered authorities, if the progress or conduct of the trainee is unsatisfactory. Mohit Kumar EA (Power) apprentice from MEAT 26 was also relegated to MEAT 27 due to 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 due 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 four subjects in MEAT 26 A1 Phase. 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 27 in A1 Phase on 22.11.2019 and was given adequate opportunity to improve his performance but he failed in five subjects and was therefore, liable for relegation iaw Para 7 (c) of NO 34/15 without conducting re-exam. 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. Para 11 (E) (v) of Appendix VII of NI 02/96, states that, if a trainee is found unsuitable during initial training, he may be transferred to another branch by CABS on the basis of recommendation made by the training, establishment. This provision has been suitably amplified in para 4 of NO 10/18, which states that CABS, on recommendation of Commanding Officer, INS Chilka is authorised to accord approval for change of branch within the same entry type to sailors whilst undergoing new entry course. Hence, there is no provision for change of branch for a sailor from AA to SSR when he is already at INS Valsura (Professional Training), after they have completed their initial training phase at INS Chilka. In absence of any provision for

re-considering the ground of 'unsuitability', on which the applicant was discharged, the applicant cannot claim a vested right to be retained in service, based on a legitimate expectation. All actions were taken as per rules and the 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 convened 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 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 provided additional time and study period in order to provide ample opportunity for improvement in weak subjects. The applicant had secured 82.6% 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 good marks in English and was able to follow the instructions imparted (in English) at Valsura. Valsura has been equipped with English language lab also. 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 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 plea of the applicant that he 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.

13. In this context, we would also like to clarify that the status of a trainee in Navy is like a probationer and therefore, if the individual fails to meet the organisational requirements during training, the respondents have every right to discharge him from service. This aspect of law has been clearly established by the Hon'ble Supreme Court vide its judgment in the case of ***Union of India & Others vs. Manoj Deswal & Others***, reported in (2016) 15 SCC 511.

