

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**Original Application No 208 of 2017**

Thursday, this the 28<sup>th</sup> day of October, 2021

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

Rect Clk No. 13631162K Sandeep Yadav S/o of Sri Arvind Yadav R/o Village Bhikhari, Post Office-Bangaon, P.S. Tarawan, District: Azamgarh, U.P.

..... Applicant

Ld. Counsel for the : **Shri Virendra Prasad**, Advocate.  
Applicant **Col AK Srivastava (Retd)**, Advocate.  
**Shri Dharam Raj Singh**, Advocate.  
**Dr. Ashish Asthana**, Advocate.

Versus

1. Union of India through its Secretary Ministry of Defence, Government of India at New Delhi.
2. The Chief of the Army Staff, Head Quarter, New Delhi.
3. Adjutant General, Army Staff Head Quarter recruiting B(A), South Block, New Delhi.
4. Officer in charge Record Para regimental Training Centre, Bangalore.
5. Training Battalion Commander, Selatong Company Prashikshan, Paltan, Parachute Regiment Preshikshan Centre, Bangalore, C/o 56 APO.
6. Commandant the Maratha LIRC Regimental Clerks Training School, Belgaum, C/o 56APO.
7. Rect Clk 2814649X Purushattam Prajapati, Maratha Light Infantry Regimental Centre, Belgaum.

..... Respondents

Ld. Counsel for the : **Shri RKS Chauhan**, Advocate  
Respondents: Central Govt Counsel.

**ORDER**

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

(i) That this Hon'ble Tribunal may kindly be pleased and directed to the opp. Parties to quash the dismissal/discharge order dated 7-3-2017 and letter No. 62518/Rangroot B(A) dated 10.01.2017 or any adverse order which was passed by the opposite parties after summoning the same during the pendency of the case & pay salary with consequential benefits etc. to the petitioner.

(ii) That this Hon'ble Court/Tribunal may kindly be pleased to pass any other order or directions which is deem just & proper in favour of the petitioner.

2. The facts of the case, in brief, are that applicant was enrolled in the Army on 24.06.2014 and he underwent basic military training at The Parachute Regimental Training Centre w.e.f. 04.08.2014. On completion of basic military training, he was sent to Maratha Light Regimental Centre for technical training of Clerk (Staff Duties) which commenced on 22.12.2014. However, he failed in midterm test and was relegated thrice in terms of policy letter dated 06.01.1995 and 10.04.1996. According to aforesaid policy, a recruit who could not pass even after relegating and three months detention, should be re-mustered or discharged from service. The applicant failed in final test on 09.02.2016 and was returned to The Parachute Regimental Centre. Applicant

made a request for change of his trade from Clerk (Staff Duties) to Soldier Tradesman (Dresser) vide personal application dated 31.03.2016. Accordingly, a case was taken up with Ministry of Defence (Infantry-6) and his case was turned down on the ground that his height was 06 cms short to become a soldier tradesman. A Show Cause Notice (SCN) dated 25.01.2017 was served upon applicant to which he replied on 13.02.2017 and after receipt of reply he was discharged from service w.e.f. 07.03.2017 under Rule 13 (3) (iv) of Army Rules, 1954 on the ground of 'Unlikely to become an efficient soldier'. This O.A. has been filed to quash discharge order dated 07.03.2017 and letter dated 10.01.2017 by which applicant's case for remustering into other trade was turned down by Ministry of Defence (Recruiting Directorate).

3. Learned counsel for the applicant pleaded that though applicant had failed in three tests in technical training, his trade ought to have been changed in terms of policy letter on the subject. His further submission is that No. 2814649X Rect Clk Purushottam Prajapati had also failed three times in technical test but he was retained in service by changing his trade from Rect Clk to Rect Tradesman and sanction for height dispensation of 02 cms was accorded vide order dated 29.06.2016, but he was denied height dispensation. His submission is that applicant be also granted sanction of

dispensation in height so that he could serve in the Army in tradesman.

4. Per contra, learned counsel for the respondents submitted that after detaining applicant for three months on account of relegation, he could not pass the technical test for Rect Clk, therefore there was no option left with the respondents to discharge applicant by issuing Show Cause Notice. His further submission is that all measures were taken to retain applicant in Army and to get his trade changed but the competent authority has rejected his case being 06 cms less than permissible height. He concluded for dismissal of O.A. making a submission that applicant was not meeting physical standard criteria required for a tradesman.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. Applicant Sandeep Yadav after completion of basic military training was sent for technical trade training at Maratha Light Regimental Centre, Belgaum. He failed in the final test and was relegated three times but even after relegation he could not pass the test and was returned to The Parachute Regimental Centre. Thereafter, applicant requested for change of trade. The Parachute Regiment took all measures to keep applicant in service and approached authority concerned for change of his trade but applicant was found unfit for soldier tradesman (dresser) due to

physical standard criteria as per Ministry of Defence letter dated 10.01.2017. Accordingly, applicant was issued Show Cause Notice dated 25.01.2017 and after receipt of reply dated 13.02.2017 he was discharged from service being 'Unlikely to become an efficient soldier' w.e.f. 07.03.2017.

7. A case was taken up with Army Headquarters, Ministry of Defence for change of his trade from Rect Clk to Tradesman (dresser) but Ministry of Defence had rejected it on 10.01.2017 as his height was 06 cms short of the desired height in Tradesman. Applicant's height is 164 cms whereas the minimum height requirement is of 170 cms for a recruit tradesman belonging to Uttar Pradesh State as per para 121 of Part-II, Section II (D) of Recruitment Directive for Recruitment of Junior Commissioned Officers and other ranks, 2014 (Annexure CA-XI).

8. In para 4.9 of O.A. applicant has taken a stand that Rect/Clk Purushotam Prajapati was retained in service by granting 2 cms height dispensation for change of trade from Rect/Clk to Tradesman (house keeper), therefore applicant also deserves to be granted height dispensation so that he could be remustered in other trade. In this regard we find that there exists minimum physical standard for Army aspirants for the various regions of the country. We find that sanction in respect of Rect/Clk Purushottam Prajapati was accorded by competent authority vide order dated

29.06.2016 on the ground that he was short by 02 cms of the required height and height dispensation provisions were existed at that time but in case of the applicant he was 06 cms short than the required height of 170 cms. Additionally, height dispensation provisions were existing when Rect/Clk Purushottam Prajapati was granted 02 cms height dispensation but when applicant's case for height dispensation was taken up, the policy was changed and applicant could not be granted height dispensation resulting in his discharge from service.

9. It is further submitted that policy letter dated 19.06.2015 for granting height dispensation was amended vide letter dated 29.12.2016 which prohibited any height dispensation. For convenience sake relevant portion of the aforesaid policy letter is reproduced as under:-

"1. X x x x

2. *The following amdt may please be carried out in para 6 (h) of this HQ letter No. 62512/Rtg (9A) dt 19 Jun 2015:-*

**For**

*(h) Dispensation in ht and age for change to Tdn trade will be under the powers of AG under the provisions of Ministry of Defence D(AG) order No. 7(60)/2001/D(AG) dt 14 Aug 2001.*

**Read**

*(h) Change of trade for Sol GD and Sol Tdn will be allowed, if the recruit meets the criteria for age and ht as per existing policy. No dispensation in ht, age for change to Sol (GD) and Sol Tdn trade will be accorded under the provisions of Ministry of Defence D(AG) order No 7(60)/2001/D(AG) dated 14 Aug 2001.*

3. *The above policy will be implemented with immediate effect. All previous policy letters on the subject will be amended accordingly incl amendments in policy directive 2014."*

10. Thus, it is crystal clear that applicant could not be retained in service being short of the required height of 170 cms and stoppage of dispensation in height by order dated 29.12.2016.

11. With the aforesaid observations, we feel that applicant has not been able to make out a case and the O.A. is liable to be dismissed. It is accordingly **dismissed**.

12. No order as to costs.

13. Pending applications, if any, disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)  
Dated: 28.10.2021  
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