

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 307 of 2021****Tuesday, this the 12th day of October, 2021****Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

1. 14849717h Sep/MT Mukesh Kumar
S/o Sri Nagendra Tewari
R/o H. No. 365, Village - Pura Dala (Khandasa)
Post – Khandasa, Tehsil – Milkipur, Distrcit – Ayodhya-224153
2. Smt. Rashmi Tewari, W/o Shri Mukesh Kumar
R/o Village - Pura Dala (Khandasa)
Post – Khandasa, Tehsil – Milkipur, Distrcit – Ayodhya-224153

.... ApplicantsLd. Counsel for the Applicant : **Shri Prabhat Kumar Tripathi**, Advocate

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, Government of India, New Delhi.
2. Commanding Officer, ASC Records (South) Pin 900493, C/o 56 APO.
3. Commanding Officer, 521 Sena Service Core Bn. C/o 99 APO.
4. Army ITI, Allenby Lines, Ambala Cantt, Haryana – 133001.

... RespondentsLd. Counsel for the Respondents : **Shri Kaushik Chatterjee**,
Govt Standing Counsel**ORDER (Oral)**

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

(a) Issue an order, direction and command to the respondents to recommend the application of the applicant for pursuing the course of ITI (Civil) from Shekhar ITI, Khandasa, Faizabad.

(b) Issue an order, direction and command to the respondents to consider and decide the representation of the applicant no. 1, contained in Annexure no. 5, in accordance with law within a time to be fixed by this Hon'ble Tribunal by passing a reasoned and speaking order.

(c) Issue such other order/direction which may be deemed just and proper in the circumstances of the case.

(d) Allow the Original Application with cost against the respondents in view of the facts and circumstances, legal provisions and grounds raised in the Application.”

2. Brief facts of the case giving rise to this application are that Sep Mukesh Kumar (applicant) was enrolled in the Indian Army on 27.01.2007 and presently posted with 521 ASC Bn. The applicant submitted an application for seeking permission to pursue ITI course from Army ITI, Ambala. The application was recommended by Commanding Officer (CO) of the unit. On 28.03.2021 the said application was processed and forwarded to ASC Records and Army ITI Ambala vide letter dated 30.03.2021. ASC Records vide letter dated 17.04.2021 returned the said application intimating that no action has been taken as no further admissions are planned in Army ITI. Army ITI Ambala vide their letter dated 13.04.2021 also returned the application intimating no admissions are being carried out. Applicant was informed accordingly. Thereafter, applicant submitted another application dated 15.05.2021 to CO of the unit seeking permission to pursue ITI Course from civil private institute named Shekhar ITI, Khandasa, Faizabad. The applicant was interviewed by Company Commander of the unit and was

informed that no such policy exist which allows serving soldiers of the Army to pursue ITI Course from civil/private institute. Therefore, applicant was not granted permission to pursue ITI Course from Shekhar ITI, Khandasa, Faizabad. Being aggrieved, the applicant has filed the present Original Application.

3. Learned counsel for the applicant submitted that present O.A. is being filed challenging the inaction on the part of the respondents for not granting permission to pursue the course of ITI (Civil) from Shekhar ITI, Khandasa, Faizabad, though on earlier occasion he was granted permission to pursue the course of ITI from respondent no. 4 by stating that no admission was being carried out by the Institution, in a wholly arbitrary and illegal manner.

4. Learned counsel for the applicant further submitted that applicant was granted permission to pursue ITI Course vide order dated 29.10.2019. Accordingly, applicant submitted an application for seeking permission to pursue ITI course from Army ITI Ambala. The application was recommended by CO of the unit and forwarded to ASC Records and Army ITI Ambala vide letter dated 30.03.2021. ASC Records vide letter dated 17.04.2021 returned the said application intimating that no action has been taken as no further admissions are planned in Army ITI. Army ITI Ambala vide their letter dated 13.04.2021 also returned the application intimating no admissions are being carried out. Thereafter, applicant submitted another application dated 15.05.2021 to CO of the unit seeking permission to pursue ITI Course from civil private institute named Shekhar ITI, Khandasa, Faizabad but no action has been taken so far.

5. He further submitted that applicant has a right for betterment of his service career and he want to take admission in ITI (Civil) from Shekhar ITI, Khandasa, Faizabad but till date neither his application has been considered nor disposed of and same is lying pending with the respondent no. 2 for consideration. He prayed to pass the directions to the respondents to recommend the application of the applicant for pursuing ITI (Civil) from Shekhar ITI, Khandasa, Faizabad in the interest of justice.

6. Learned counsel for the respondents submitted that applicant while posted with 521 ASC Bn submitted an application for seeking permission to pursue ITI course from Army ITI, Ambala. The application was recommended by Commanding Officer (CO) of the unit and forwarded to ASC Records and Army ITI Ambala vide letter dated 30.03.2021. ASC Records vide letter dated 17.04.2021 returned the said application intimating that no action has been taken as no further admissions are planned in Army ITI. Army ITI Ambala vide their letter dated 13.04.2021 also returned the application intimating no admissions are being carried out. Applicant was informed accordingly. Thereafter, applicant submitted another application dated 15.05.2021 to CO of the unit seeking permission to pursue ITI Course from civil private institute named Shekhar ITI, Khandasa, Faizabad. The unit tried to find out if there was any such policy existing which allows serving soldiers of the Army to pursue ITI Course from civil/private institute in middle of the service but no such policy exists. The applicant was interviewed by Company Commander of the unit and was informed that no such policy exist for pursuing course in civil institute. Therefore, applicant was not

granted permission to pursue ITI Course from Shekhar ITI, Khandasa, Faizabad.

7. Learned counsel for the respondents further submitted that as per provisions promulgated vide 'Combined Record Office Instructions 2012 ASC', JCOs/OR in the last three years of service only are permitted to apply/join the ITI course being conducted at Army ITI. The provisions also exist for the JCOs/OR to apply for resettlement Vocational Training (VT) courses during last three years of their service. The applicant will complete his normal terms of engagement on 31.01.2029 in the present rank and thus, he is left with seven years of residual service in the Army. He pleaded for dismissal of O.A.

8. We have heard learned counsel for the parties and perused the records.

9. We observe that initially applicant's application to pursue ITI Course from Army ITI Ambala was recommended by the Commanding Officer of unit vide letter dated 29.10.2019 and was forwarded to ASC Records and Army ITI Ambala for sanction. However, ASC Records vide letter dated 17.04.2021 returned the said application stating no further admissions are planned in Army ITI and Army ITI Ambala vide their letter dated 13.04.2021 also returned the application intimating no admissions are being carried out. Therefore, applicant was not granted permission and he was informed accordingly. Thereafter, applicant submitted another application to CO of the unit seeking permission to pursue ITI Course from civil private institute named Shekhar ITI, Khandasa, Faizabad which was also rejected informing that no such policy is existing in the Army which allows serving soldiers of the Army

to pursue ITI Course from civil/private institute. The applicant was interviewed by the Company Commander of the unit and was informed that no such policy exist for pursuing course in civil institute in middle of the service.

10. In view of above, Original Application is disposed off with the directions to the respondents to consider the case of the applicant to grant permission to pursue ITI Course from civil; in the station where the applicant is presently posted and not in any other place, if feasible, as per rules. The Respondents are directed to comply with the order within a period of three months from the date of receipt of certified copy of the order.

11. No order as to costs.

12. Misc. Application, if any, pending for disposal, shall be treated to have been disposed of.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 12th October, 2021
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