

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

COURT NO – 3

Transferred Application No. 32 of 2012

Wednesday, this the 26th day of August, 2015

Hon'ble Mr Justice D.P. Singh, Member (J)

Hon'ble Air Marshal Anil Chopra, Member (A)

**Ranjeet Kumar Thakur, Army No 6374335-X
son of Rajendra Thakur, Resident of Village and
post : Kaithi, Tehsil and District : Khagaria (Bihar), at
present residing at Pursottam Nagar, Allahabad.**

-----Petitioner

Ld. Counsel for the Petitioner : **Shri R Chandra, Advocate**

Versus

1. Union of India, through Chief of the Army Staff,
Ministry of Defence New Delhi.

2. Commanding Officer No.2 Trg. Bn.(Sup),
ASC Centre (South Bangalore – 7

<p>3. K Kartikeyan 4. I.M. Ansari 5. P. Shiv Prakashan 6. Villu Nayakam 7. Pun Muri Yappan.</p>	}	<p>R/o Unit No 2 Trg.Bn.(Sup) ASC Centre (South) Bangalore - 7</p>
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-----Respondents

<p>Ld. Counsel for the Respondents</p>	<p>: Shri Dileep Singh, : Central Govt. Counsel Assisted by Lt Col Subodh Verma, Departmental Representative.</p>
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ORDER**(Passed in Court)**

1. Heard Shri R Chandra, Ld. Counsel for the petitioner and Shri Dileep Singh, Ld. Counsel for the Respondents.

2. The petitioner belongs to state of Bihar. He appeared in the selection process for enrolment in the army. During the enrolment process on 7.01.1999, he appeared before the appropriate authority for physical checkup. At the time of enrolment, his height was 164 cms. During the recruiting process on 07 Jan 1999 he qualified for clerical post. He completed his basic military training. As per rule, before commencement of clerical training he was required to pass proficiency and aptitude test for clerical trade. The petitioner could not pass proficiency and aptitude test in all three chance, hence he was not allowed to undergo technical training for clerks. In the policy letter there is provision that if any candidate is failed in proficiency and aptitude test, he will be considered for change of trade provided he fulfills the prescribed physical standard. The physical standard varies from clerical trade to non-clerical trade and it is mandatory requirement that a candidate would fulfill the conditions of prescribed physical standard that is height, weight and chest. The petitioner was given chance for re-mustering in other trade but due to lack of prescribed physical standard, he was discharged from service. In view of the option given by the Respondents, he was considered for non clerical trade but there also he failed because of his height. For the candidate of Bihar cadre prescribed height for non clerical trade is 169 cms hence his case for transfer to non-clerical cadre was not considered. Ld. Counsel for the Applicant submitted that since the applicant belongs to Bihar cadre, the policy for the applicant

of Bihar minimum height is 169 cms while the height for candidates of Tamilnadu cadre, minimum height required is 165 cms. As per policy for enrolment in clerical cadre height required for the candidates of Bihar is 169 but the candidate having 164 cms have been selected. Submission of the Ld. Counsel for the applicant is that there should be equal rule for the everybody.

3. On the other hand, Ld. Counsel for the Respondents submitted that upto 2 cms relaxations can be given to a candidate hence there is no flaw. As per policy, if any recruit found unfit for technical training as clerk and cannot be accommodated in other trades will be discharged from service. Respondents tried their best to accommodate the candidate in other category but the petitioner was not found fit as per rules, hence he was discharge from service as per rule 13.

4. Ld. Counsel for the petitioner submits that according to para 5 of the policy letter, people of Tamilnadu can be enrolled on the height of 164 cms but people of Bihar having same height cannot be selected

5. We have considered the arguments

6. While submitting the counter affidavit, the policy has been brought on record. Candidates of Bihar may qualify only in case they have height of 169 cms. Since the applicant belongs to Bihar. Minimum height for Bihar Candidates should be 169 cms. The height of the candidate was 164 cms, hence he was not considered for re-mustering in other trade. Relaxation of 2 cms can be granted for enrolment in the army but the height of the candidate was 5 cms less than the required height. Accordingly decision taken by the respondents for grant of

relaxation of height does not suffer legality otherwise Article 14 of the constitution of Indian with regard to right of equality.

7. Ld. Counsel for the Respondents submitted that 8 candidates were failed in proficiency and aptitude test, out of them 5 candidates were recommended for change of lower trade because they were fulfilling prescribed physical standard for other trades and 3 candidates, including the petitioner were discharged from the service as they were not eligible for change of trade due to lack of prescribed physical standard. where people belongs to same country and class and secondly in case some written decision is taken against the candidates, then Ld. Counsel for the petitioner submitted that it is settled position of law claim parity in cased the candidate by the Annexure No CA-I. If the candidate is not selected for lesser height for non clerical cadre as is devoid on merit and dismissed.

8. Thus, in the result, the Transferred Applicant has no force and is dismissed.

9. No order as to cost.

(Air Marshal Anil Chopra)
Member (A)

ukt/-

(Justice D.P Singh)
Member (J)