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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **Date of Decision: 18.05.2023**
 % **W.P.(C) 12949/2021 and C.M. Nos. 40781/2021, 43477/2021,**
30337/2022 & 30344/2022
VIKRAM SWAMI Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman
 Mehrotra & Mr. Nikunj Arora,
 Advocates.

versus

UNION OF INDIA AND ORS Respondents
 Through: Mr. Anurag Ahluwalia, CGSC, for
 Respondents No.1 to 3/ UOI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The Writ Petition has been filed stating it to be in public interest and would benefit a large number of citizens who aspire to join the armed forces.
2. The Petitioner's grievance is that the Indian Navy is discriminating in the matter of recruitment of personnel below officer rank (PBOR) by evolving a short-listing criteria even before the written examination, and the act of the Indian Navy in short-listing the candidates even before the commencement of examination is bad in law. The Petitioner has prayed for the following reliefs.

“a) Issue a Writ of Certiorari for quashing of the advertisement issued by the Respondents in the employment news dated 16-22 October, 2021 to the extent whereby the Indian Navy has reserved its right for short listing the Applicants by increasing the cut off marks obtained by them in class 10+2 examination, contrary to the already laid down eligibility criteria in the said advertisement, after their applications were received by them for recruitment as PBOR(s) in the Indian Navy; and



b) Issue a Writ of Mandamus directing the Respondents to consider all candidates, who are fulfilling the eligibility criteria laid out in the advertisement, to take part in the selection process by issuing admit cards to them for the post they have applied for; and

c) Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case.”

3. The Petitioner in the Writ Petition has described the process of recruitment of enrollment as a personnel below officer rank in the armed forces. He contended that Army, Air Force and Navy conducts their independent selection process through various selection boards.

4. The Petitioner has further stated that earlier also, a PIL was preferred i.e. W.P.(C.) No. 8678/2017 titled ***Onkar Choudhary Vs. Union of India & Ors.*** challenging the methodology adopted by the Navy and Air Force in short-listing the candidates by increasing the cut-off marks obtained by the candidates in class 10+2 examination, and during the pendency of the aforesaid Writ Petition, the Indian Air Force as well as Indian Navy had filed an affidavit and the grievance raised in the PIL was redressed. The PIL preferred in the aforesaid matter was disposed of on 24.04.2019. However, the Indian Navy still continuing with the process of short-listing candidates by increasing the cut-off marks obtained by them in the class 10+2 examination. The Petitioner has prayed for quashment of the advertisement published in Employment News dated 16-22.10.2021. The advertisement dated 16-22.10.2021 is reproduced as under:



THE INDIAN NAVY

INVITES ONLINE APPLICATIONS FROM UNMARRIED MALE CANDIDATES FOR ENROLLMENT AS SAILORS FOR ARTIFICER APPRENTICE (AA) & SENIOR SECONDARY RECRUITS (SSR) - FEB 2022 BATCH

COURSE COMMENCING FEBRUARY 2022



ELIGIBILITY CONDITIONS

1. Online applications are invited from unmarried male candidates who fulfil eligibility conditions as laid down by the Government of India for recruitment as sailors for AA and SSR for 2022 batch. The vacancies will be filled on a state-wise basis. For the year of 2022 vacancies, approximately 10000 candidates will be called for written examination and Physical Fitness Test (PFT). The cut off marks for appearing in written examination will vary from state to state.

2. Educational Qualifications

- AA- Qualified in 10+2 examination with 50% or more marks in aggregate with Maths & Physics and at least one of these subjects - Chemistry/Biology/Computer Science from the Boards of School Education recognised by Ministry of Education, Govt. of India.
- SSR- Qualified in 10+2 examination with Maths & Physics and at least one of these subjects - Chemistry/Biology/Computer Science from the Boards of School Education recognised by Ministry of Education, Govt. of India.

3. Age: Candidates should be born between 01 Feb 2000 to 31 Jan 2005 (Both dates inclusive).

PAY AND PERQUISITES

4. Pay & Allowances: During the initial training period, a recruit of ₹ 14,000/- per month will be admissible. On successful completion of initial training, they will be placed in Level 3 of the Defence Pay Matrix of ₹ 21,000/- + ₹ 28,100/-, in addition, they will be paid MSP @ ₹ 5,000/- per month plus DA (as applicable) plus 10% Gracia pay only for Artificer Apprentice (AA) @ ₹ 2,000/- per month plus DA (as applicable) as under trainee and ₹ 5,000/- per month plus DA on successful completion of AICTE recognised diploma course.

5. Promotion: Promotion prospects add up to the rank of Master Chief Petty Officer, i.e. Level 8 of the Defence Pay Matrix (₹ 47,600/- + ₹ 1,01,100/- plus MSP @ ₹ 5,000/- per month plus DA (as applicable). Opportunities for promotion to commissioned officer also exist for those who performed well and qualify the prescribed examinations and their defence education course.

6. Facilities

- During the entire period of training and thereafter, sailors are given books, reading material, uniforms, food and accommodation as per entitlement.
- Sailors are entitled to medical treatment, Leave Travel Concessions for self and dependents, Group Housing Benefits and other privileges. Sailors are also entitled to Annual and Casual Leave, Children Education and Medical Grant Allowances. Post-employment benefits include pension, gratuity and Leave encashment. All perquisites are entailed as per service conditions and their eligibility is fully regulated as per Government orders in force and extended from time to time.

7. Insurance Cover: Insurance cover contribution of ₹ 3,000/- for sailors is applicable.

SELECTION CRITERIA

8. Due to COVID-19 pandemic, an exception is being made in the public interest wherein approximately 10000 candidates will be called for written examination and PFT. The eligibility of the candidates for written examination and PFT will be undertaken on the basis of percentage of qualifying candidates (10+2 examination). The cut off marks may vary from state to state as suggested below from selected states in a state-wise manner.

9. Written Test

- The question paper will be in English (Hindi & English) and objective type.
- The question paper will comprise of four sections - English, Science, Mathematics and General Knowledge.
- The standard of the question paper will be level of 10+2 and the syllabus for the examination is available on website www.joinindiannavy.gov.in.
- Duration of examination will be 90 minutes.
- All candidates appearing for written examination would be subjected to PFT on the same day.

10. Physical Fitness Test (PFT)

- Qualifying in Physical Fitness Test (PFT) is mandatory for selection.
- PFT will consist of 1. 800 m to be completed in 7 minutes, 20 squats (bunk test) and 10 Push-ups. Candidates undergoing PFT will do so on their own risk.

11. Mark lists for AA and SSR will be prepared based on performance in written examination subject to qualifying Physical Fitness Test (PFT), as follows:-

- AA - Top 300 candidates (appears) on all India order of merit, who meet the eligibility criteria for AA will be called call as holder for Enrollment Medical Examination of INS Chhatra.
- SSR- Approximately 2500 candidates will be called call up letter for Enrollment Medical Examination at INS Chhatra on the basis of state-wise merit.

Note:- The cut off marks for basis of call up letter for Enrollment Medical Examination at INS Chhatra may vary from state to state for SSR entry.

12. Medical Standards

- Medical examination will be conducted by authorized military doctors as per medical standard prescribed in current regulations, applicable to all forces only.
- Minimum height 157 cms, Weight and Chest should be proportionate. Minimum chest expansion of 5 cms. Data is regarding minimum height standards for only into the Indian Navy as recruit, making application requirements, cannot exceed that threshold recruitment version.
- The candidate must be in good physical and mental health, free from any defect, liable to interfere with the efficient performance of duties with others and able to perform as well as other conditions as per Navy Order (Special) 01/2022. Extract of the Navy Order can be accessed from the official recruitment website of Indian Navy.
- Enrollment Medical Examination of all candidates who are to merit list will be held at INS Chhatra. Candidates who are found medically fit in Enrollment Medical Examination will be enrolled. Candidates who are found medically unfit will be advised to appeal against the findings, if they so desire, at INS Mumbai, Chhatra and INS Rajahmundry. Vaccinogram within a maximum period of 21 days, the further medical appeal is permissible if declared unfit in the special report review.
- Note:-** Candidates are advised to get their ears checked for wax and better removed from both prior to enrollment medical examination.

13. Visual Standards (Direct vision only)

Without Glasses		With Glasses	
Snellen Eye	Visual Acuity	Snellen Eye	Visual Acuity
6/6	5.0	6/6	5.0

Note:- Applicants declared Permanent medically unfit by any Armed Forces Hospital in previous recruitment for the same entry in Navy are advised not to apply.

14. Tattoos: Permanent body tattoos are only permitted on inner face of forearm or on back of hand or on the reverse side of palm, back, neck, outer side of hand. Permanent body tattoos on any other part of the body is not acceptable and candidate will be termed from recruitment.

TRAINING AND INITIAL ENGAGEMENT

15. Training: The training for the recruit will commence in Feb 2022, with 04 weeks for AA and 20 weeks for SSR Basic Training at INS Chhatra followed by Professional training in the allotted trade in various Naval Training Establishments. Recruit Trade will be allocated as per the requirement of Service.

16. Discharge as "Unsuitable": Trainees are liable to be discharged as "UNSUITABLE" if their progress (including academic) and/or conduct is unsatisfactory at any time during training. Trainees are also liable to be discharged at any stage of training and thereafter if their documents are found to be forged at the stage of recruitment.

Initial Engagement: This initial engagement is subject to successful completion of training. The initial engagement is for a period of 29 years for AA and 15 years for SSR.

17. The applications are to be filed online only on website www.joinindiannavy.gov.in and all required documents in original are to be scanned and uploaded. The selection procedure is as follows:-

(a) The digital documents uploaded by the candidates during online filing of application viz. Original Certificates, Mark sheets, Candidate Certificate and MSP Certificate (if applicable) to be brought by the candidates at all stages of recruitment (Written Examination and Enrollment Medical at INS Chhatra). If the details provided in online application are not matching with original documents at any stage, the candidature will be cancelled.

(b) The cut off marks for appearing in written examination may vary from State to State. All PFT qualified candidates will only be considered for consideration of merit list.

(c) The merit list will be available on website www.joinindiannavy.gov.in in 1st Jan Feb 22. All candidates appearing in merit list will be called at INS Chhatra for Enrollment Medical. The selection of a candidate will be considered and he will have an option to withdraw from the Indian Navy in case the candidate fails to report on the date and time mentioned in call letter for Enrollment Medical Examination at INS Chhatra. Enrollment will be subject to Fitness in Enrollment Medical Examination at INS Chhatra. Medical fitness certificate other than of the specified agency is a Military Hospital will not be considered. No further medical appeal is permissible.

(d) The candidate's selection pertaining to a particular entry is valid for that entry only. Qualified candidate whose name do not appear in the merit list cannot claim consideration for the next batch. These candidates will have to undergo the selection procedure afresh, provided they meet the eligibility criteria for the next batch.

(e) All candidates who are selected in merit list will be required to download Police Verification form and other associated forms along with the Call letter for Enrollment Medical Examination at INS Chhatra. The candidate will be required to submit the form to INS Chhatra after getting the antecedents verified on Police Verification form. On his police verification form from the Superintendent of Police of their respective jurisdiction. Candidates should be in possession of police verification from either place of domicile or place of residence. Candidates without the verified police verification reports or place with address specified will not be eligible for enrollment. The form for the police verification form can also be downloaded from the website www.joinindiannavy.gov.in immediately after the declaration of merit list, to obtain timely verification.

(f) No enquiry will be entertained regarding this recruitment recruitment after a period of six months.

HOW TO APPLY

18. For the entry, the candidates can apply ONLINE ONLY on the official website www.joinindiannavy.gov.in from 16 Oct 21 to 25 Oct 21. The procedure is as follows:-

(a) Before filing online application, keep matric certificate & 10+2 Mark sheet ready for reference.

(b) Register yourself on www.joinindiannavy.gov.in with your e-mail ID, if not registered already. The Applicant must ensure that while filling the application form they are providing valid e-mail and using correct IDs and mobile numbers, which should not be changed till selection procedure is over.

(c) Log-in with the registered Email ID and Click on "Current Opportunities".

(d) Click on "Apply" to button.

(e) Fill up the Form completely. Before clicking the "Submit" button make sure all the details are correct, all required documents are scanned in original & uploaded.

(f) Online applications will be further scrutinized for eligibility and may be rejected at any stage, if found ineligible in any respect.

(g) **Photographs:** Good quality photograph with blue background to be uploaded.

19. The application may be uploaded from Common Service Centers (CSC) across the country against fixed fee of Rs 50 + GST. This facility is entirely optional.

20. In case of any difficulty faced by potential candidates, they may contact: IHC M&D (navy) through website www.joinindiannavy.gov.in

21. IMPORTANT INFORMATION

(a) Mobile phones or any other electronic devices are not allowed inside the examination premises. Any infringement of these regulations shall result disciplinary action including ban from future examinations.

(b) Candidates are strongly advised to apply online well in time without waiting for the last date for submission of online application.

(c) No candidate should reappear in any manner or create secondary seats in examination premises.

(d) Candidates should avoid submitting multiple applications. If more than one application is received from a candidate, his candidature will be cancelled.

(e) The decision of the Indian Navy as to the eligibility or otherwise of a candidate for admission to the written examination and PFT shall be final.

(f) Wrong information about comorbidity certificate will result in cancellation of candidature at any stage of recruitment or training.

If it mandatory to submit a negative RT-PCR laboratory report of COVID-19 from Govt/ICMR accredited laboratory by candidates at the time of written examination (Report should be dated maximum 12 hours prior to reporting date).

LAST DATE OF ONLINE APPLICATION - 25 OCT 21

WARNING

WARNING OF AGENTS/CHATELAIN/TOURIST/ SOCIAL ELEMENTS

Person claiming support with the officials of the Naval Recruitment Group leader may promise to get a candidate recruited and on the promise may collect money. WE WOULD LIKE TO ASSESS THAT SUCH A THING IS NOT POSSIBLE. CLARIS will only be issued by IHC M&D. Anyone for whom any help/PR in case of any recruitment by India Navy is not according to the promises of any agent/PR. If you think that you can get the things done unlawfully, you are bound to lose. You are advised to conduct yourself as a law abiding citizen of the country and refrain from doing any such activity.

DISCLAIMER

The terms and conditions given in the advert insert are guidelines only and online issued by the Government as amended from time to time will apply for the selected candidates.



Scan this QR code to apply online

EN 21/202

Enr 1001/11/1002/2022

Signature Not Verified

Digitally Signed
By: BHUPINDER SINGH
ROHELLA
Signing Date: 05/07/2023
14:33:55



Neutral Citation Number: 2023:DHC:4494-DB

5. A detailed and exhaustive reply has been filed on behalf of Respondents, and the Respondents have stated that the Petitioner does not have any locus to file the Petition. It is further stated that the present case is a Public Interest Litigation in a service matter which deserves to be dismissed.

6. The Respondents have also stated that the Petitioner is guilty of suppressing facts before this Court by stating that he does not have any personal interest in the litigation but, in fact, the Petitioner himself was an Applicant for sailor's entry, and submitted his application for the post of Sailor in Indian Navy as Artificer Apprentice (hereinafter to be referred as 'AA')/ Senior Secondary Recruit (hereinafter to be referred as 'SSR') during the year 2019, 2020 and 2021 for entry into Matric Recruitment (hereinafter to be referred as 'MR') in the October 2020 batch.

7. The Respondents have further stated that out of the four attempts, the Petitioner absented himself in one, and was not selected in the remaining three attempts.

8. The Respondents have further stated that the Petitioner – who himself was an Applicant for the recruitment batch in August, 2021, wherein, the same short-listing process, which was in existence earlier also, was adhered to apply, has filed a PIL and it is nothing but personal interest litigation.

9. The Respondents have further stated that the advertisement for recruitment of Sailors as SSRs/ AAs is published twice in a year in the month of May-June and September-October, respectively and the selection procedure provided under the advertisement is as under:



“

- i.) *Advertisement for recruitment is published in employment news and leading newspaper across the country as well as on the website; 'www.joinindiannavy.gov.in'.*
- ii.) *Candidates are to fill online form on website www.joinindiannavy.gov.in and upload scanned copy of Class 10 and Class 12 mark sheets and Domicile Certificate on the website.*
- iii.) *Shortlisting of candidates is carried out State-wise, based on marks obtained in the qualifying (Class 12). The shortlisted candidates are issued admit cards for the next stage (written exam & physical fitness test). The number of candidates shortlisted (10,000 candidates for AA/SSR – 01/2022 batch) is based on the 'testing capacity' of the Indian Navy.*
- iv.) *The shortlisted candidates undergo written examination and physical fitness test at designated Naval Recruitment Establishments.*
- v.) *Merit List is compiled based on marks obtained in the written examination (Stage II), subject to candidates qualifying in physical fitness test. The candidates featuring in the merit list are given the call up letter for enrolment medical examination at Chilka.*
- vi.) *On reporting at INS Chilka, candidates undergo induction medical examination. Medically qualified candidates are thereafter inducted.”*

10. The Respondents have stated that the process of recruitment in the Indian Navy is a two stage process, wherein, stage-I is aimed at short-listing of candidates for the subsequent stage-II examination, which thereafter is conducted in a naval environment. Further, based upon the merit list for the respective batch, the process of recruitment is continued.



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11. It has been further stated that the short-listing of the candidates prior to 2018 was carried out on the basis of marks obtained in class 12th examination and the number of short-listed candidates depended upon the testing capacity of the Indian Navy.

12. The Respondents have further stated that the Indian Naval Entrance Test (hereinafter to be referred as 'INET') was conceptualized as a Pan-India Computer Based Examination for short-listing of Sailors in the year 2014 and approval of the Hon'ble Defence Minister for the same was accorded on 15.07.2016.

13. Initially, first two examination cycles were conducted on a pilot basis in the year 2018 for a limited number of entries and thereafter, the Naval Entrance Test was expanded to include all sailor entries from February, 2019 onwards.

14. The Respondents have further stated that INET was conducting the process of short-listing of candidates for the further recruitment process and had replaced the earlier process of short-listing based on marks.

15. The Respondents have further stated that at a relevant point in time, there was a manpower shortage in the Indian Navy, and on account of nation-wide lockdown imposed by the Government of India in March 2020, a batch holiday was declared in the Indian Navy recruitment cycle. The same resulted in additional shortage of about 2500 Sailors and in those circumstances, the impugned advertisement was issued i.e. Advertisement No. 1/2022. The entire process of recruitment, on account of the aforesaid examination, is over. The merit list of successful candidates has been



prepared on the basis of result of written examination and physical fitness test which was held between 06.12.2021 and 09.12.2021.

16. The Respondents have provided rationale for State-wise short-listing criteria as under:

- i.) *“It is submitted that the recruitment of sailors in the Indian Navy is undertaken based on the State-wise Recruitable Male Population (hereinafter referred to as “RMP”), which is as per the directives issued to the three services by Government of India Ministry of Defence vide MoD/ Def Sec Note ID No. 6287/Def Secy dated 03.07.1992. It is further submitted that the recruitment in the three services is based on state wise RMP, which is further derived from the National census data, is an established principal. It is further submitted that hence, towards ensuring the homogenous representation from all States, State-wise shortlisting of candidates is undertaken.*
- ii.) *It is submitted that the aim of recruitment in the Indian Navy is to select qualified and competent manpower whilst ensuring that the national character of the Indian Navy is maintained, through homogenous representation from all states/ union territories. It is further submitted that the homogenous representation amongst sailors is essential for maintaining the functional efficiency of the war-fighting platforms of the Indian Navy. It is further submitted that the recruitment of personnel based on State wise RMP is critical towards maintaining the homogeneous representation, which further necessitates the state wise shortlisting of candidates.*
- iii.) *It is submitted that the process of shortlisting of candidates State-wise, based on marks obtained in the qualifying examination is an established procedure, which was being followed prior to the introduction of the*



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computer based INET Test in 2018, and the same has been laid down in Navy Order 27/2015. It is further submitted that the purpose of the INET examination was to shortlist candidates for the further stages of recruitment, for which candidates were being shortlisted vide the state wise RMP. Hence, the process of shortlisting candidates based on state wise RMP, has always been there and no change has been made by the Indian Navy in that regard. ”

17. The Respondents have further stated that the process of short-listing of candidates based on State-wise Recruitable Male Population (RMP) has been resorted to, due to non-availability of contract with any public/ private entity involved in conducting Pan-India Computer Based Examination. It is contention of the Respondents that criteria evolved by them does not violate any constitutional right guaranteed to the Petitioner, who has filed the present PIL.

18. The Respondents have explained the process of recruitment in the Indian Navy as under:

i.) “It is submitted that Section 11 of Navy Act 11957 and Regulation 261(2) of Regs Navy Part III authorizes the Chief of the Naval Staff to conduct recruitment of sailors through the Recruitment Organisation and lay down appropriate regulations regarding manner, procedure and terms and conditions of enrolment. A copy of Section 11 of Navy Act, 1957 is annexed herewith and marked as Annexure R-3. A copy of the Regulation 261(2) of Regs Navy Part III is annexed herewith and marked as Annexure R-4.

ii.) It is submitted that the Government of India/ Ministry of Defence Letter dated 01.09.2006 delegates administrative powers to Service headquarters wherein



Sr. NO. 10 at Appendix 'A' delegates the authority to "introduce new entry/ schemes/ disciplines including technical education qualification for induction of personnel into the Army/ Navy/ Air Force with no additional financial implications", to the Chief of Personnel (hereinafter referred to as "COP"). A copy of the Ministry of Defence Letter dated 01.09.2006 is annexed herewith and marked as Annexure R-5.

iii.) It is submitted that the detailed orders pertaining to recruitment methodology to be employed have been laid down in the Navy Order No. 27/2015. It is further submitted that the Para 20 of Navy Order No. 27/2015 specified the conduct of written examination (for all entries except for musicians and sports entry), for shortlisting of candidates to undergo Physical Fitness Test. Copy of relevant extracts of the Navy Order No. 27/2015 is annexed herewith and marked as Annexure R-6.

iv.) It is submitted that it is evident from above, that the COP is authorized to decide on the recruitment methodology including the mode of examination for induction of sailors."

19. The Respondents further contended that it is for the employer to evolve a process for short-listing and as there was an acute shortage of Sailors in the Indian Navy, and especially in view of the fact that a batch holiday was declared in the previous year due to Covid-19 Pandemic, short-listing was done by the Respondents. Thereafter, based upon the marks obtained in INET examination, candidates have been appointed by the Respondents in the Indian Navy.

20. The Respondents have further stated that the Petitioner, herein, was unsuccessful in the recruitment process in the years 2019, 2020 and 2021.



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Now, that he is over-age, wants to unsettle the recruitment, which has already taken place, by filing the present PIL. The Respondents have further stated that at present, the entire scheme/ process of recruiting Sailors – which was earlier in existence, has been replaced by the Agnipath scheme. It is pertinent to state that the Agnipath scheme was also challenged before various High Courts, and also before this Court in W.P.(C.) No. 11011/2022 titled *Harsh Ajay Singh Vs. Union of India and Ors.* & was connected with other batch matters. The batch matters were thereafter decided vide a common judgment dated 27.02.2023 which in turn has upheld the Agnipath scheme.

21. The Respondents have stated that the question of interference in the peculiar circumstances of the present case does not arise and an individual who is aspiring to join the Indian Army, Navy or Air Force, has to apply as and when an advertisement is issued under the Agnipath scheme.

22. The Respondents have stated that the present Petition is frivolous and deserves to be dismissed with heavy cost.

23. Heard Learned Counsels appearing for the Parties and perused the record. The undisputed facts of the case reveal that the Petitioner before this Court, Mr. Vikram Swami, though has filed the present Petition as a public interest petition, is personally interested in the matter. The Petitioner himself was an Applicant for Sailors entry and had applied for the post of Sailor in the Indian Navy as a Artificer Apprentice/ Senior Secondary Recruit, during the year 2019, 2020 and 2021. He had also applied for entry into Matric Recruitment in the October, 2020 batch. The Petitioner out of



four attempts made by him for joining the Indian Navy was absent in respect of one attempt and was not selected in other three attempts, on account of his failure in the short-listing examination or alternatively on account of low marks obtained by him at the time of short-listing.

24. The Petitioner was again an Applicant in the August, 2021 recruitment batch, wherein, the same short-listing process which had been adopted earlier was followed by the Respondents and the Petitioner has filed a PIL challenging the short-listing criteria adopted by Navy.

25. The Petitioner after participating in the process of selection is questioning the process of selection, and, therefore, once he has participated in the selection process, he is estopped from questioning the same. In the considered opinion of this Court, the Petitioner has personal interest in the litigation and the Petition is guided by self-gain, hence, cannot be treated as a PIL.

26. Not only this, the present PIL is a PIL in respect of a service matter and the Hon'ble Supreme Court has time and again held that PILs in service matters are not maintainable. In ***Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra***, (1998) 7 SCC 273, the Hon'ble Supreme Court has observed as under: -

“18. The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of



their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of “service matters” found in Section 3(q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word “his” cannot be ignored. Section 3(b) defines the word “application” as an application made under Section 19. The latter section refers to “person aggrieved”. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word “order” has been defined in the explanation to sub-section (1) of Section 19 so that all matters referred to in Section 3(q) as service matters could be brought before the Tribunal. If in that context Sections 14 and 15 are read, there is no doubt that a total stranger to the service concerned cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated.”

27. The aforesaid line of reasoning has been upheld on various instances thereafter, in ***Dr. B. Singh v. Union of India & Ors.***, (2004) 3 SCC 363 and ***Neetu v. State of Punjab***, (2007) 10 SCC 614.

28. This Court, even though a PIL is not maintainable in a service matter, has looked into the process of selection and the undisputed facts reveal that an Advertisement for recruitment of Sailors as SSRs and AAs is published twice in a year in the month of May-June and September-October, respectively. As per the process of selection, eligible candidates are required to submit an online application keeping in view the terms and conditions of the Advertisement. Without going into detail, the Respondents,



herein, have already described the selection process in detail.

29. So far as the selection process in Indian Navy is concerned, the recruitment is a two stage process, wherein, Stage-I is aimed at short-listing of the candidates for the subsequent stage of examination being Stage-II which is conducted in a naval environment. Based upon this examination, a merit list is prepared and orders of appointment are issued basis the merit list prepared by the Indian Navy.

30. The undisputed facts further reveal that short-listing of candidates prior to the year 2018 was carried out based on marks obtained in class 12th examination and the number of short-listed candidates depended upon the testing capacity of the Indian Navy.

31. The Indian Navy in order to provide transparent mechanism for the purpose of selection conceptualized the INET which is a computer based examination for short-listing of Sailors.

32. The INET started from the year 2014 with due approval of the Hon'ble Defence Minister and the approval was accorded on 15.07.2016.

33. The first two examination cycles of INET were conducted on a pilot basis in the year 2018 for a limited number of entries, and, thereafter, the INET was expanded to include all sailor entries from February, 2019 onwards.

34. The INET was conducting the process of short-listing of the candidates for the further recruitment process and had, in fact, replaced the short-listing based on marks.



35. The record further reveals that M/s Sify Technologies Ltd. was awarded the contract for conducting INET which expired on 15.07.2020.

The contract was not extended for the following reasons:

“i) Decline in Academic Performance of Trainees:

A major decline in the academic performance of trainees was observed in the training institutions. The alarming decline in academic performance was evident from the fact that around 220 trainees were relegated from a particular batch on academic grounds, out of which approx. 50 candidates were subsequently discharged from service as unsuitable (based on poor academic performance).

ii) Reports of Manipulation of Online Examinations:

Since early 2021, various reports/cases/attempts of manipulation/hacking of online or computer-based examinations (such as JEE, NEET, GRE, STAR conducted by IAF etc.) had surfaced in the media. Hence, a review of the security features of Indian Navy's INET was considered essential.

iii) Nexus of Coaching Centres/Touts/Middlemen, etc:

Experience from conducting examinations, inputs from field as well as various internal inquiries by the Indian Navy have suggested that the environment in which the computer-based examination is conducted, is extremely hostile, with numerous players including coaching centres, touts, middlemen, examination centre owners and some of their staff form an impenetrable nexus involved in subverting the examination process. ”

36. The Ministry of Defence, keeping in view the aforesaid, reviewed the process of INET and initiated the process of revamping the sailor's recruitment process with various technical and administrative enhancements/alterations aimed at curbing any such issue of manipulation of the examination in the future. Thereafter, the Government of India took a policy decision for conducting a Pan-India Computer Based Examination.



37. The record further reveals that there was an acute manpower shortage in the Indian Navy, and on account of the nation-wide lockdown imposed by the Government of India in March, 2020, a batch holiday was declared by Indian Navy in respect of the recruitment cycle, which resulted in shortage of about 2,500 Sailors. The total manpower shortage was approximately 12,500 sailors and keeping in view the total strength of sailors and the shortage which was caused on account of non-conduct of the recruitment examination, the Indian Navy initiated the process of recruitment in respect of AA/ SSR by issuing an Advertisement. The Advertisement which has been reproduced earlier was issued for AA/SSR – 01/ 2022, and after holding the examination, the merit list of successful candidates was prepared based upon the written examination and the physical fitness test, held on 06.12.2021 and 09.12.2021.

38. The Indian Navy after the medical examination of individual candidates on 01.02.2020 has issued appointment orders and the entire process of appointment is over. The Petitioner, herein, has been unsuccessful in the same, and is raising hue and cry in the matter pretending to be a *bona fide* Petitioner.

39. It is pertinent to note that the Government of India has taken a policy decision in the matter of recruitment by introducing the Agnipath scheme and the scheme was also subjected to judicial scrutiny by this Court. This Court has upheld the scheme introduced by the Government of India, as the policy clearly is in the national interest, and the same is a policy decision. After the introduction of Agnipath scheme with effect from 14.06.2022, all recruitments are being done as per the Agnipath scheme. The process of



recruitment which is subject matter of the present Writ Petition/ PIL has already been discontinued.

40. Much hue and cry has been raised by the Petitioner in the matter of short-listing and the fact reveals that the Indian Navy has limited presence across the country with major naval bases situated in a few coastal cities. The Indian Navy has got a total of 9 naval recruitment establishments situated at Mumbai, Kochi, Chennai, Visakhapatnam, Jamnagar, Kolkata, Delhi, Dehradun and Port Blair. In those circumstances, the short-listing of the candidates was being done by taking into account the 12th Standard marks.

41. It is nobody's case that persons who are less meritorious are being selected. In fact, short-listed candidates are more meritorious. The counter-affidavit explained the rationale for state-wide short-listing criteria and the same is reproduced as under:

i.) *"It is submitted that the recruitment of sailors in the Indian Navy is undertaken based on the State-wise Recruitable Male Population (hereinafter referred to as "RMP"), which is as per the directives issued to the three services by Government of India Ministry of Defence vide MoD/ Def Sec Note ID No. 6287/Def Secy dated 03.07.1992. It is further submitted that the recruitment in the three services is based on state wise RMP, which is further derived from the National census data, is an established principal. It is further submitted that hence, towards ensuring the homogenous representation from all States, State-wise shortlisting of candidates is undertaken.*

ii.) *It is submitted that the aim of recruitment in the Indian*



Navy is to select qualified and competent manpower whilst ensuring that the national character of the Indian Navy is maintained, through homogenous representation from all states/ union territories. It is further submitted that the homogenous representation amongst sailors is essential for maintaining the functional efficiency of the war-fighting platforms of the Indian Navy. It is further submitted that the recruitment of personnel based on State wise RMP is critical towards maintaining the homogeneous representation, which further necessitates the state wise shortlisting of candidates.

- iii.) *It is submitted that the process of shortlisting of candidates State-wise, based on marks obtained in the qualifying examination is an established procedure, which was being followed prior to the introduction of the computer based INET Test in 2018, and the same has been laid down in Navy Order 27/2015. It is further submitted that the purpose of the INET examination was to shortlist candidates for the further stages of recruitment, for which candidates were being shortlisted vide the state wise RMP. Hence, the process of shortlisting candidates based on state wise RMP, has always been there and no change has been made by the Indian Navy in that regard. ”*

42. In the considered opinion of this Court, the criteria of short-listing can never be said to be an arbitrary process, and it has to be applied in all cases where the number of candidates is very high.

43. This Court is of the considered opinion that the short-listing criteria adopted by Indian Navy does not warrant any interference. The Petitioner has not been able to point out a violation of any statutory provisions of law warranting interference by this Court

44. The Petitioner has also not been able to point out violation of any



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right guaranteed to the Petitioner under the Constitution of India. On the contrary, the Petitioner has been unsuccessful on account of the short-listing process carried out by the Respondents for selection, which stands concluded. The Petitioner has become over-aged, and on account of change in policy, the recruitment to the post of sailor is not in existence and all recruitments by the Respondents are being done as per the Agnipath Scheme.

45. This Court does not find any reason to interfere in the matter keeping in view the peculiar facts and circumstances of the case. The present PIL stands dismissed.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

MAY 18, 2023

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