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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9390/2017 & C.M. Nos. 38278-79/2017**

ROHIT

..... Petitioner

Through: Mr. Bhairav Dass and Mr. Yogesh Dass,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Amit Mahajan, Advocate for R-1.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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26.10.2017

1. The petitioner is aggrieved by the decision of the respondent No.2/Director (AFTI) Head Quarters, Integrated Defence Staff Ministry of Defence and Commandant, National Defence Academy rejecting his request for reinstatement in the NDA.
2. Briefly stated, the relevant facts of the case are that on 20.6.2015, UPSC had issued an advertisement for conducting tests for admission in all the wings of NDA for the 136th Course that was to commence from 02.7.2016.
3. The petitioner had applied for registration in the NDA examination, 2015 and upon qualifying the same on 25.6.2016, he was allotted Academy No. 37669, G- Squadron, 2nd Battalion. After joining the Academy, the petitioner suffered a leg injury and applied to the respondent No.3 for sick leave. On 02.8.2016, he was granted sick leave for 28 days

during which period, he claims to have taken treatment at Safdarjung Hospital, New Delhi. Simultaneously, the petitioner had applied for the 137th Course that was to commence from 02.1.2017 and had qualified in the same. However, he did not proceed for the interview as by that time, he had already joined the 136th course at NDA. On 29.8.2016, the petitioner rejoined his training but he had not fully recovered from his ankle joint injury, for which he received further treatment at the Military Hospital in the Academy.

4. Thereafter, the petitioner again applied for sick leave on 14.10.2016, which was granted from 15.10.2016 to 23.11.2016. Another set of sick leave was granted to the petitioner on 29.11.2016, from 30.11.2016 to 20.12.2016. On 21.12.2016, the petitioner's father was informed that his son had been relegated from the 136th Course to the 137th Course on 28.12.2016, on medical grounds due to his hospitalisation while undertaking the 136th course.

5. Instead of joining the 137th Course, the petitioner submitted his resignation to the respondents on 07.1.2017, on the ground that he was unable to cope with the training on account of suffering from an ankle joint injury. Pertinently, the resignation letter tendered by the petitioner has not been placed on record. However, the letter dated 24.2.2017 addressed by the respondent No.3 to the respondent No. 2 specifically mentions that the petitioner had tendered his resignation with his parents' consent stating that he was unable to cope with the training due to a leg injury and that he desired to pursue an alternate career after discontinuing his training. The resignation submitted by the petitioner was accepted by the respondents on 10.1.2017 and he was permitted to leave NDA on 18.1.2017

6. Within 48 hours from the aforesaid date, the petitioner submitted a representation dated 20.1.2017 to the respondent No.3 seeking his reinstatement as a Cadet. Pertinently, the aforesaid letter has also not been placed on record. Instead, a representation dated 13.2.2017 submitted by the petitioner to the respondent No.3 has been filed wherein the petitioner claims to have come under '*acute pressure*' which made him tender his resignation. The petitioner's representation dated 20.01.2017 was forwarded by the respondent No.3 to the respondent No.2 for an appropriate decision by the competent authority. Vide letter dated 27.05.2017, respondent No.3 informed the petitioner that his case for reinstatement was not approved by the competent authority.

7. The only ground urged by learned counsel for the petitioner for seeking the petitioner's reinstatement in the NDA is that he was not intimated about the reasons for rejection of his representation. He states that the petitioner was under a compulsion while tendering his resignation during training, so as to get his injury diagnosed and get appropriate treatment to avoid further aggravation of the injury which he had suffered and that his injury could not be properly diagnosed by the doctors in the Military Hospital at NDA.

8. We find no merit in the aforesaid submission made by the learned counsel for the petitioner. Records reveal that the petitioner had proceeded on sick leave at least on three occasions, during which period, as per his own plea, he had taken treatment at Safdarjung Hospital. Therefore, it is evident that the plea that his medical injury not being properly diagnosed by the Military Doctors, is only an after thought. Even otherwise, in our view, if it was the petitioner's grievance that he was not extended proper medical

treatment at NDA, then he had an option of requesting the respondent No.3 to refer him to a specialist, but no such request was made. That alone could not be a ground to justify his decision to seek reinstatement after tendering his resignation for his own considerations. Nor can the decision of the respondents of rejecting the petitioner's request for reinstatement be treated as in violation of the principles of natural justice. Once the petitioner had on his own approached the respondent No.3 with a request to accept his resignation which was duly endorsed by his father, the respondents cannot be blamed for acceding to his request for being released from NDA, more so when he had expressed his desire to pursue an alternate career, not being able to cope with the training due to his injury.

9. In view of the aforesaid facts and circumstances, we do not find any merit in the present petition, which is accordingly dismissed in *limine* alongwith the pending applications.

HIMA KOHLI, J

REKHA PALLI, J

OCTOBER 26, 2017

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