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

+ W.P.(C) 248/2018 and CM APPL. 1049/2018 (Direction)
PARIVESH KUMAR Petitioner
Through: Mr. Pankaj Kaushik, Advocate.

versus

UNION OF INDIA & ANR Respondents
Through: Mr. Akshay Makhija and
Ms. Divyaa Kapoor, Advocates.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **10.01.2018**

1. The petitioner has filed the present petition for quashing the order 25.12.2017, passed by the respondent No.2/Air Force cancelling his candidature for recruitment to the post of Airman.
2. Learned counsel for the petitioner submits that the petitioner had applied for recruitment to the post of Airman with the respondent No.2 on 29.09.2016 and on passing the written and physical examination in February, 2017, he was called for a medical test in which he had appeared on 07.8.2017 and had cleared the same. On 10.11.2017, the petitioner was issued a call letter to report on 24.12.2017. On the very next day to his reporting to the respondents on 24.12.2017, the petitioner was handed over a cancellation of his enrolment letter dated 25.12.2017, stating *inter alia* that the permanent body tattoo found on his body was not permissible for

selection to the Armed Forces, as per the existing policy. The said letter also stated that non-permissibility of body tattoos for enrolment in the Indian Air Force was duly published in the advertisement for the recruitment to the Indian Air Force. Aggrieved by the aforesaid cancellation order, the petitioner has filed the present petition.

3. Learned counsel for the petitioner submits that once the petitioner was selected for the subject post, the respondents could not have issued the impugned cancellation letter at the last moment. He contends that the petitioner had duly declared that he had a body tattoo, in terms of a certificate submitted by him when a call letter was issued to him and it is not as if he has hidden anything from the respondents.

4. Mr. Makhija, learned counsel for the respondents, who appears on advance notice counters the submissions made by the other side and points out that though the advertisement issued by the respondents for inviting applications from the candidates had specifically stated that “*candidates with permanent body tattoos must submit a photograph of the tattoo with size and type of the tattoo*”, the petitioner had failed to do so. He clarifies that only a permanent body tattoo on the inner face of the fore arms (inside of elbow to the wrist), the back (dorsal) part of the hand /reverse side of palm and in the case of Tribals with tattoos, which are as per the custom and traditions of their tribes, are permitted. The right to decide on the acceptability/unacceptability of the individual rests ultimately with the Selection Committee.

5. We may note that the entire dispute hinges on the position of the tattoo on the body of the petitioner. Despite the same, learned counsel for

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the petitioner has not filed any photographs to indicate as where exactly has the tattoo been engraved on the body of the petitioner.

6. Mr. Makhija, learned counsel for the respondents hands over copies of the photographs of the body tattoo of the petitioner, which reveal that the same is not on the inner face of his fore-arm, but on the external face of his fore arm, which is not permissible. The said photographs are taken on record. Further, as per the guidelines laid down by the respondents in terms of their letter dated 11.4.2014, furnished to us by the counsel for the respondents, though there is no restriction on the size or type of the tattoo engraved, the discretion ultimately rests with the recruiting agency to allow or disallow the candidate for appointment. The said guidelines are also taken on record.

7. Having regard to the fact that the tattoo engraved on the body of the petitioner is not in conformity with the relaxation granted in the advertisement, we do not find any infirmity in the impugned order of cancellation of his appointment. Nor can the respondents be faulted for cancelling the candidature of the petitioner in December, 2017, when he had failed to submit a photograph of his tattoo at the time of submitting his application, as prescribed in the advertisement.

8. The petition is accordingly dismissed *in limine* alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

JANUARY 10, 2018/na/ap
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