

\$~71

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

+

Date of Decision: 31.7.2019

% **W.P.(C.) No. 1250/2019**

VIJAY KUMAR AND OTHERS

..... Petitioners

Through: Mr. Alakh Alok Srivastava and
Mr. Chandan Kumar Singh,
Advocates.

Versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Rajesh Kumar, Advocate
with Ms. Santwana, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J. (ORAL)

W.P. (C) No. 1250/2019 & CM No. 5634/2019

1. The petitioners have filed the present writ petition, inter alia, with the following prayers :

- 1 To issue an appropriate Writ, Order or Direction to set-aside the cut-off date of 31.03.2019 fixed by the respondent CRPF for determining the

Age-Limit of the CRPF Personnel to be sent in the CRPF contingent of the United Nations (UN) Mission to the South Sudan;

2 To issue an appropriate Writ, Order or Direction to the respondents to fix the Cut-Off date on 23.08.2016 i.e. the date of written examination of the Petitioners, for calculating the age-limit of the Petitioners herein and accordingly include them in the final contingent of CRPF Personnel to be sent in the United Nations (UN) Mission to the South Sudan;

3 Or in alternative, if the Respondent CRPF is permitted to fix the cut-off date on 31.03.2019 for the aforesaid purpose, then grant similar age relaxation to the Petitioners herein, as has been granted to a similarly situated personnel, namely Rajesh Kumar (Force No. 015232142) as per Article 14 of the Constitution of India and accordingly include them in the final contingent of CRPF Personnel to be sent in the United Nations (UN) Mission to the South Sudan.

2. The relevant facts of the case are that vide order No. D.I.3/2006-2015-Pers-DA-8 dated Aug.2015, the respondent CRPF issued consolidated guidelines for free and fair selection of Contingent Personnel male /female for deployment in Liberia under UNMIL. The petitioners submitted their applications for their selection in the UNMIL Contingent in their respective category and they qualified in the written examination held on 23.08.2016. They also

qualified in the physical test as well as medical test.

3. Thereafter, vide signal No. D-I-I/2016-I03-EC-3 dated 25.10.2016 the respondent CRPF tentatively earmarked the petitioners (amongst other personnel) for training in respect of MFPU-08th contingent for deployment in Liberia under UNMIL w.e.f. 07.11.2016 at RAPO, 108, RAF, Meerut (U.P.)
4. Vide order dated 12.05.2017, the petitioners were directed to report at 103 RAF, Wazirabad, New Delhi, for deployment of Indian Formed Police Unit under UN Mission in South Sudan. Thereafter vide order dated 12.06.2017, the petitioners were declared as successful in the Pre-Deployment Training conducted at RAF Academy of Public Order(RAPO)-108 Battalion from 07.11.2016 to 31.12.2016.
5. On 09.11.2017, the petitioners, were directed to report at 108 Battalion RAF by 15.11.2017 for Rapid Deployment Level verification visit. On 26.03.2018, the petitioners were directed to be ready to move on a short notice on hearing from DTE/RAF Headquarter. However, vide signal No. D.I.3/2018-Pers-DA-8 dated 13.12.2018, the respondent CRPF clarified that overage candidates can be detailed only after there is no eligible officer/ personnel in a particular post/rank within the prescribed age are available in the selection panel and vide signal No. D.I.I./2019 UNPCRS dated 02.01.2019, the respondent CRPF had only sent other shortlisted personnel for further medical examination for

deployment in the UN Mission leaving aside the petitioners.

6. The petitioners then submitted their representation and vide signal No. D.I.1/2019-FPU-UNMISS dated 07.01.2019, the respondent CRPF directed the petitioners to report for their medical examination on 08.01.2019 at Composite Hospital, Delhi. The petitioners duly appeared in the medical examination and were found fit, but despite that the respondent CRPF refused to include the petitioners in the final contingent of the UN Mission of South Sudan, without assigning any reason. Consequently, the petitioners have approached this Court.
7. The respondents filed their counter affidavit and the main stand taken by the respondents in their counter affidavit - for not considering the petitioners for the UN Contingent, is that they were found overage as on 31.03.2019.
8. The petitioners have filed their rejoinder and have stated that there was no cut off date mentioned in the guidelines dated August, 2015 as to by which particular date, the age of the HC or CT should be less than 45 years or 40 years respectively. It is stated that the qualifying examination was conducted on 23.08.2016 and hence the cut-off date for deciding the age-criteria should be the date of examination which is 23.08.2016 and not 31.03.2019 as fixed arbitrarily by the respondents.
9. We have heard the submissions of the Ld. counsels and

given our due consideration to the matter.

10. It is urged by the counsel for the petitioners that the respondents cannot arbitrarily fix the cut off date as 31.03.2019 when no such date was mentioned in the consolidated guidelines issued in August, 2015. He further urged that the petitioners have cleared the written examination, physical test as well as medical test and they were even declared as successful in the Pre-Deployment training, but simply on the arbitrary fixing of the cut off date, they were declared overage and their names were not included in the final Contingent of UN Mission. During the course of the arguments, he has placed on record a letter dated 16.07.2019 issued by the DIG(PERS), stating therein that the contingent is ready for conducting PDV/FPAT by UN Team between 29.07.19 to 02.08.2019.
11. On the other hand, the only stand taken by the respondents is that since the cut off date was fixed as 31.03.2019, therefore, the candidature of petitioners were not considered and their names were not included in the final list, as they were overage as on 31.03.2019.
12. The petitioners have responded for their selection in the contingent which was to be deployed in Liberia under UNMIL vide order dated August, 2015 issued by the respondent CRPF. The eligibility criteria in the said order is as under :

Eligibility Criteria

a) General

UNDPKO's E/Fax No. PolDiv-2773/13 dated 04 September 2013 issued revised Standing Operational Procedure (SOP) for Assessment of Operational Capacity of Formed Police Units (FPUs) for service in United Nation Peacekeeping Operation received through PMI to UN, New York, vide E/Fax No.97 dated 11/09/2013 and MHA vide their UO No. 21023/30/2012/PMA dated 20/09/2013. In the said Guidelines it has strongly recommend that **FPUs member be under 55 years of age and should have 05 years of Police experience in their home Country prior to deployment.** However, after considering efficiency and turnout of Contingent personnel and difficulties experienced during previous selection process following eligibility criteria for various ranks will be as under for selection of Contingent personnel to be deployed in Liberia under UNMIL:-

1.	Age Limit	
	GOs (Male/Female)	AC/DC – Below 45 years 21C/CO – Below 50 years
	MOs(Male/Female)	i. Insp/SI/ASI (Male) – Below 45 years of age. ii. Insp/SI/ASI (Female) – Below 50 years of age
	M/Staff (Insp/SI)	Insp/SI (Min) (Male/Female) – Below 50 years of age
	Pharmacist (SI/Staff Nursing/ASI (Pharm) (Male/Female)	Below 45 years of age.
	NGOs (HC/CTs) (Male/Female)	HCs (Male)

		<i>Below 45 years of age.</i> <i>HC (Female) Below 50 years of age</i> <i>Cts (Male/Female)</i> <i>Below – 40 years of age.</i>
	<i>Followers</i> <i>(BB/Cook/WC/SK)</i>	<i>Below – 40 years of age</i>
2.	<i>Educational qualification</i>	
	<i>GOs (Male/Female)</i>	<i>Degree</i>
	<i>MOs (Male/Female)</i>	<i>MBBS</i>
	<i>SOs (Insp/SI/ASI)</i>	<i>Higher Secondary</i>
	<i>Min/Staff (Insp/SI)</i>	<i>Higher Secondary</i>
	<i>Pharmacist (SI/Staff Nurse/ASI (Pharm))</i>	<i>B. Pharma or D. Pharma</i>
	<i>NGOs (HC/Cts)</i>	<i>Matriculation</i>
	<i>Followers</i> <i>(Cook/SK/BB/WC)</i>	<i>No bar</i>

13. The perusal of the eligibility criteria shows that it has been strongly recommended in UN guidelines that FPU's member should be under 55 years of age and should have 05 years of Police experience in their home country prior to deployment. However, the respondents, looking into the efficacy and turnout of the contingent personnel and on account of their previous experience in selection process laid

down the criteria of their own in regard to the age.

14. As per criteria of the respondent CRPF, the age limit for NGOs (HC/CTs) (Male/ Female), H.C. (Male) should be below 45 years of age and CTs (Male/Female) below 40 years of age. On the date, when the petitioners applied they were fulfilling the age criteria as laid down by the respondents. It is also not the case of the respondents that the petitioners have not qualified the other eligibility criteria which they have laid down for selection. The only reason for their non inclusion in the UN contingent is that they have become overage as on 31.03.2019, the date which have now been fixed by the respondents as a cut off date which does not find mention in the order dated August, 2015 under which the petitioners have applied for UN deployment.
15. During the course of the arguments, it was put to the counsel for the respondents as to on what basis the cut off date 31.03.2019 has been fixed, but the counsel for the respondents was clueless in this regard. The counsel for the respondents has placed on record an order dated 23.07.2019 issued by DIGP(Admn.)RAF HQr.
16. In the order No. D.I.3/2006-2015-Pers-DA-8 dated Aug, 2015, under which the petitioners have applied for deployment in the UN Mission at Liberia, no particular cutoff date has been mentioned, as on which the age of HC or CTs should be less than 45 years or 40 years respectively.

17. According to the respondents, the petitioner N. Jayachandran was aged 45 years, 2 months and 28 days as on 31.03.2019, petitioner Satyanand was aged 47 years and one day as on 31.03.2019, petitioner K. Sureshan was aged 45 years, 10 months and 20 days as on 31.03.2019 and petitioner Vijay Kumar was aged 41 years, 4 months and 26 days as on 31.03.2019. Therefore, according to the cut off date which was fixed by the respondents as 31.03.2019 all the petitioners became over age, and therefore, barred from inclusion in the UN List.

18. Ld. Counsel for the petitioners has relied upon ***Ashok Kumar Sonkar Vs. Union of India & Others***, 2007 (3) SCALE in which it has been held as follows :

“The question as to what should be the cut-off date in absence of any date specified in this behalf either in the advertisement or in the reference is no longer res integra. It would be last date for filing application as would appear from the discussion made hereinafter.
(emphasis supplied)

19. In the instant case, since no last date for filling up the application form has been mentioned but the written examination was held on 23.08.2016, therefore, the cut off date for deciding the age criteria can be taken to be 23.08.2016 and not 31.03.2019, as has been arbitrarily fixed by the respondents without any basis. One cannot loose sight of the fact that all the petitioners fulfilled the age criteria when they had applied in response to the order

dated August, 2015. The respondents now cannot fix the cut off date as 30.03.2019, and bar the petitioners when as per the UN guidelines the prescribed age limit is less than 55 years. Now once the cut off date is taken as 23.08.2016, which is the date of written examination, all the petitioners were within the age limit as per criteria prescribed in August, 15 order of the respondents. The perusal of the order dated 23.07.2019 which has been placed on record by the counsel for the respondents during the course of arguments, shows that the respondents have processed the petitioner's documents for visa purposes in terms of the interim order dated 15.02.19 passed by this Court.

20. Therefore, in these circumstances, when the petitioners have cleared their written examination, physical test as well as medical test and they were also declared as successful in the Pre-Deployment Training and their documents are also being processed for visa purposes, so we see no reason why the relief should not be granted to the petitioners, when we have already observed hereinabove that the cut off date 31.03.2019 has been arbitrarily fixed by the respondents.

21. Therefore, in view of the discussions mentioned hereinabove, the petition is allowed and the respondents are directed to include the petitioners in the final contingent of

CRPF Personnel to be sent in the United Nations (UN) Mission to the South Sudan forthwith. Dasti under signature of Court Master.

RAJNISH BHATNAGAR, J.

VIPIN SANGHI, J.

JULY 31, 2019

Sumant



मह्यमेव जयते