

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.230

CWP-4677-2019 (O&M)

Date of decision : 9.1.2020

Deepak

..... Petitioner

VERSUS

Director General NCC, Govt. of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sanjeev Kodan, Advocate, for the petitioner.

Mr. Vivek Chaudhan, Advocate, for the respondents.

SUDHIR MITTAL, J. (Oral)

CM-3172-2019

The application is allowed as prayed for and Annexures P9 and P10 are taken on record. Exemption sought for is also granted.

CWP-4677-2019

Challenge in this writ petition has been laid to letter/order dated 4.2.2019 (Annexure P7), whereby application of the petitioner for permission to take the NCC 'C' Certificate Examination due on 10.2.2019 was rejected.

In the year 2013, the petitioner got himself enrolled in Unit-2, CHD Bn., National Cadet Corps as is evident from Certificate dated 7.8.2014 annexed as Annexure P2. The training was for a period of 3 years and on completion of 3 years' training, a cadet becomes eligible to sit for the 'C' Certificate Examination provided he possesses the 'A' Certificate and 'B' Certificate and fulfills the other eligible conditions prescribed in the relevant rules, a copy of which has been placed on record as Annexure P1. In February 2015, the petitioner appeared in 'B' Certificate Examination and qualified the same. The result thereof was declared in May 2015. He

graduated into 3rd year of his training and attended the National Integration Camp-I, Bodhgaya from 1.10.2015 to 12.10.2015. Soon thereafter, he developed some skin infection and was medically advised to avoid hot and humid conditions and to keep clean and dry. This is evident from OPD Card issued by the Civil Hospital, Sector-6, Panchkula dated 23.2.2016, a photocopy of which has been annexed as Annexure P4. In September 2018, the petitioner re-joined in the 3rd year and regularly attended the classes. On 21.1.2019, the petitioner made an application for permission to take the 'C' Certificate Examination, but the same has been rejected vide the impugned letter/order dated 4.2.2019 on the ground that there was a break of 24 months after the 3 year tenure of NCC was over.

Learned counsel for the petitioner submits that according to the eligibility conditions prescribed for 'C' Certificate Examination, in case there is a break in excess of 18 months, a cadet must attend a minimum of 75% periods of the 3rd year of training and on doing so, he becomes eligible to take the examination. The petitioner is thus, fully eligible to take the examination and the denial of his application is illegal.

Learned counsel for the respondents submits that the petitioner was discharged from his course after completion of period of 3 years from the date of his enrollment i.e. in February 2016. Thus, he ceased to be a cadet in 3rd year of Senior Division/Senior Wing, NCC training and was not eligible to take the 'C' Certificate Examination. Moreover, the condition of break in the training for a period of upto 18 months or more is applicable only within the 3 years tenure of the training course. The petitioner is not eligible and the aforementioned impugned letter/order is legal and valid.

The National Cadet Corps has issued a Directive for Certificate

has been placed on record as Annexure P1. This document has not been denied by learned counsel for the respondents. Clause III (c) of the said Directive contains the eligibility conditions for the 'C' Certificate Examination and sub clauses (iv) and (v) are being reproduced below:-

(i) xxxxxx

(ii) xxxxxx

(iii) xxxxxx

(iv) Break in the NCC Training Tenure of the cadet SD/SW prior to appearing in the Exam should not exceed more than 18 months at one time after his discharge to count his previous tenure for Certificate C examination.

(v) In case the break exceeds 18 months the following procedure will be adopted:-

(aa) If he had been on the unit rolls for a minimum of two years before his discharge and attended 75% of the total period during his NCC tenure he will need another 30 periods of training to become eligible for Certificate C examination.

(ab) In other cases where above conditions are not fulfilled, the cadet must attend a minimum of 75% periods of the third year of training.

(vi) xxxxxx

(vii) xxxxxx

In the written statement, there is no denial of the assertion that the petitioner fulfills the other eligibility conditions. Thus, all that is required to be seen is whether he fulfills the conditions prescribed in case the

break exceeds 18 months. As per clause (v) reproduced above, in case the break exceeds 18 months, a cadet would be eligible to take the 'C' Certificate Examination provided he has been on the unit rolls for the minimum of 2 years before his discharge and attended 75% of total number of periods apart from attending another 30 periods of training. In all other cases, he must attend a minimum of 75% of the periods in 3rd year of training. The petitioner has placed on record his attendance record after he was re-enrolled in September 2018 and according to the same, the petitioner has attended 27 out of 34 classes. Thus, his percentage of attendance is more than 79%. The petitioner thus, fulfills the eligibility conditions prescribed.

Learned counsel for the respondents has also argued that on completion of 3 years period from the date of enrollment, the petitioner was discharged from the course. Thereafter, it was not permissible for him to take the 'C' Certificate Examination. The break referred to in the Directive regarding eligibility, is during the period of 3 years and not thereafter.

This argument is illogical and deserves to be rejected. If the petitioner had become ineligible to continue his course after his discharge, he should not have been admitted in the 3rd year of training in September 2018. The factum of admission of the petitioner in the 3rd year of training in September 2018 has not been denied and thus, the respondents are estopped from contending that the petitioner was no longer eligible to continue the course after 12 months of his discharge. That apart, clause (v) of the Directive very clearly states that break period could exceed 18 months after the discharge. The argument thus, is contrary to the terms of the Directive aforementioned.

It may also be noticed that the petitioner has already been permitted to take the practical examination of ‘C’ Certificate Examination.

The writ petition is accordingly allowed and the impugned letter/order dated 4.2.2019 (Annexure P7) is quashed. It is directed that the petitioner be permitted to take the next written examination due in January-February, 2020.

(SUDHIR MITTAL)
JUDGE

9.1.2020
Ramandeep Singh
Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No