

\$~Suppl.-14

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

% Date of Order: 2nd March, 2021

+ W.P. (C) 10502/2020

SANDEEP

.....Petitioner

Through: Mr. Yudhvir Singh Chauhan, Adv.
with petitioner in person

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Siddharth Khatana, Sr. Panel
Counsel for UOI with Mr. Nitin
Khanna and Mr. Manpreet, Advs.
for R-1 & R-2 with Sgt. Dharendra
Srivastava, Central Airman
Selection Board
Mr. Jagjit Singh, Advocate for R-3
to R-5.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

ASHA MENON, J

CM APPL.8183/2021 in W.P. (C) 10502/2020

1. The application has been heard by way of video conferencing.
2. This order will dispose of an application moved under Section 151 of CPC by the petitioner, seeking modification of the order dated 12th February, 2021.
3. By means of this application, the petitioner has sought for directions to the respondent No.2/Indian Air Force to fix a date for

consideration of the candidature of the petitioner for enrolment to the post of Airman and to modify the order dated 12th February, 2021 to the said extent.

4. We have heard learned counsel for the petitioner/applicant Sh. Yudhvir Singh Chauhan and Sh. Siddharth Khatana, Advocate for the respondents No.1 & 2. We have also heard the petitioner in person as well as Sgt. Dhirendra Srivastava, on behalf of the respondent No.2/Indian Air Force.

5. We may note that the petition had been initially filed seeking directions to the respondents No.3 to 6/Railways to issue a 'No Objection Certificate' (NOC) to enable him to be considered as a candidate for the post of Airman with the respondent No.2/Indian Air Force. Though it was contended by the respondent No.2/Indian Air Force that the petitioner had suppressed material facts regarding his employment with the Railways, the Court vide order dated 22nd December, 2020 noticed that the cancellation of the candidature of the petitioner was only for the reason that he had failed to produce NOC from the Indian Railways and issued the following directions : -

“8. Though undoubtedly, there is some delay on the part of the petitioner in approaching this Court, but it is still felt that if the petitioner is willing to serve the country in the Indian Air Force, he should be given an opportunity therefor. The counsel for the respondents Indian Air Force is requested to advise the respondents Indian Air Force accordingly and if they desire to contest the petition, to definitely file an affidavit/counter affidavit before the next date.”

6. On the next date of hearing, i.e. 11th January, 2021, Sh. Siddharth Khatana, the learned counsel for the respondent No.2/Indian Air Force, informed this Court that the petitioner's request was being "considered sympathetically" and further time was sought to resolve the matter, which was granted. On 10th February, 2021, on the specific request of the learned counsel for the petitioner, as he did not want to appear in the physical hearing, the case was adjourned to 12th February, 2021. However, though the learned counsel for the petitioner did not appear on 10th February, 2021, the learned counsel for the respondent No.2/Indian Air Force on that date had handed over a letter dated 8th February, 2021 addressed to him, regarding the approval for enrolment of candidates who had missed the date in 2020, including the petitioner, for the intake in 2021. The petitioner had been called upon to report on 11th February, 2021 at Ambala, for this purpose, but failed to do so. Now, the present application has been moved seeking modification of the order dated 12th February, 2021 for fixing a date to enable the petitioner to report for enrolment.

7. The application has been vehemently opposed by Sh.Khatana and on instructions, he submitted that there was no procedure under which further extension of time could be given to the petitioner to report for enrolment. He along with Sgt. Srivastava, also voiced their fear, that permitting the petitioner to join now would open the floodgates for others to claim similar treatment as they had failed to report on the designated day for enrolment. Sh. Khatana further submitted that two emails had been sent to the petitioner in January itself informing him about the date he was required to report at Ambala and this information was also

uploaded on the website of the respondents about which procedure the petitioner was fully aware and as the petitioner had wilfully not turned up he did not deserve any further opportunity.

8. The learned counsel for the petitioner as also the petitioner claim that the emails had not been received by him on the ground of internet disruption. However, it is conceded that it was indeed amiss on the part of the petitioner not to have checked the website. There is no explanation for the petitioner having absented from the hearing on 10th February 2021. Nor is there any explanation offered by either the petitioner or his counsel for their absence on 12th February 2021. It is evident that the concern shown by the court for the petitioner's future has been treated with utter disdain by them, which, to say the very least, is quite unacceptable conduct.

9. Indeed, it does appear strange that a person who claims to be extremely eager to join the Air Force, failed to diligently follow the case despite knowing that as on 11th January, 2021, the Air Force was considering his case sympathetically. It is beyond comprehension that the petitioner would not have tried to keep a watch for any information on the website so as not to miss anything. Rather, he seems to have lost interest in the matter, as reflected in the absence of the petitioner and his counsel on two successive dates of hearing, which was why the conduct of the petitioner appears suspect. Probably, he was hoping to take up some other employment and when that option fell through, for whatever be the reason, he has sought to revive the present one by moving the present application on 25th February, 2021.

10. On 12th February, 2021, during virtual hearing, despite the fact that

neither the learned counsel for the petitioner nor the petitioner himself had appeared, the following orders were passed: -

“None is present for the petitioner. Even on the last date of hearing, none was present for the petitioner. Consequently, this Court has no other option but to proceed ahead with the present matter.

It is pertinent to mention that present writ petition has been filed seeking a direction to the respondent nos.1 & 2 to re-consider the candidature of the petitioner for the post of Airman on merits and direct the respondent Nos.3 to 6 to issue necessary No Objection Certificate for enabling the petitioner to join the post of Airman in the office of respondent no.1.

Learned counsel for respondent nos.3 to 6 states that necessary No Objection Certificate has been issued to the petitioner.

Mr.Siddharth Khatana, counsel for respondent-UOI, had on 10th February, 2021 handed over a letter dated 08th February, 2021 written to him by Group Captain, Officer-In-Charge Legal Cell, Central Airmen Selection Board. The relevant portion of the said letter reads as under:-

“Considering the prevailing situation caused due to Covid-19 Pandemic, the competent authority has accorded approval for enrolment of candidates (Main and S/By) in Intake 01/2021, who were not enrolled in Intake 02/2020 despite being issued with e-call letter due to absenteeism or cancellation of candidature for not presenting the required educational/miscellaneous documents. Accordingly, the petitioner Sandeep S/O Sher Singh bearing Roll No.1901555252 has been called for enrolment at 1 Airmen Selection Centre, Ambala on 11 Feb 2021 for Intake

01/2021 which would be subject to production of NOC/Discharge certificate from his erstwhile employer, fitness in the pre-enrolment medicals and available vacancies.”

Keeping in view the aforesaid letter, the present writ petition is disposed of as satisfied.”

11. This seems to have encouraged them both to take the court and the Air Force authorities for granted. The petitioner has expressed his regret for this lapse and assures the court that he would not be found wanting in future. The petitioner is a young person who appears to be keen on an assured career. But his conduct has nothing to commend itself and it is a matter of speculation how he would manage to meet the high degree of discipline required in the Indian Air Force, in case he is found fit to be selected.

12. Nevertheless, keeping the youth of the petitioner in mind, this court allows the present application. However, as it is informed that the enrolment process will end on 4th March, 2021, the respondent No.2/Indian Air Force is directed to intimate to the petitioner forthwith the place and time he needs to report for enrolment, and his candidature may be considered by the respondent No.2/Air Force, subject to his fulfilling all requirements of the enrolment process including the production of the required NOC/discharge certificate and all other educational/miscellaneous documents.

13. In order that the petitioner be conscious that this opportunity has come at some cost to himself, this court further directs that the petitioner in the event of his being selected as Airman shall donate his first salary

to “UMEED ASHA KIRAN SCHOOLS-A special School for specially-abled Children”, run by the Indian Air Force.

14. The application is disposed of accordingly.

15. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

ASHA MENON, J

MANMOHAN, J

MARCH 02, 2021/s

