



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

Date of decision: 28th SEPTEMBER, 2022

IN THE MATTER OF:

+ **LPA 499/2022 & CM APPL. 38070/2022**

ARNAV TYAGI (MINOR) THROUGH HIS NATURAL
GUARDIAN Appellant

Through: Mr. Vishwendra Verma, Ms. Shivali,
Advocates

versus

UNION OF INDIA AND ANR Respondents

Through: Ms. Nidhi Banga, Advocate with
Major Partho Katyayan

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. Aggrieved by the judgment dated 13.07.2022 passed by the learned Single Judge in W.P.(C) 2604/2022, the Appellant seeks to challenge the said judgment by filing the instant LPA.
2. The facts of the case reveal that the Appellant is the son of an Ex-Serviceman, who was serving in the Indian Navy and was invalidated from service for being physically handicapped.
3. It is stated that the Appellant appeared in the examination for Army Public School, Dhaula Kuan, New Delhi. According to the Appellant, he had qualified the exam but he was not called for the interview.



4. It is stated that despite sending representations to the Respondents, no reply was received by the Appellant and, thereafter, the Appellant approached this Court by filing a writ petition bearing W.P.(C) 2604/2022 with the following prayers:-

“i) To direct the respondents to consider the petitioner admission after granting him reservation as per judgment Aryan Raj Vs. Chandigarh Administration & Ors. and also in the light of judgment Anmol Bhandari (Minor) through his father /natural guardian Vs. Delhi Technological University, the vacancies of Schedule Caste and Schedule Tribe and the petitioner to be given benefits of ex-serviceman (physically handicapped's son/SC/ST);

ii) To direct the Respondents grant reservation to the physically handicapped persons/ or their wards”

5. The learned Single Judge by way of the judgment impugned herein held that since the Appellant failed to qualify the admission test, he was not called for the interview. The learned Single Judge dismissed the said writ petition *vide* Judgment dated 13.07.2022.

6. Learned counsel for the Appellant has taken this Court through a policy decision taken by the Government of India regarding reservation of seats for admission to Rashtriya Military School for the Entitled Category, and submits that 70 per cent seats of Entitled Category are reserved for wards of JCOs/OR of Army and their equivalent in Navy and the Air Force.

7. Learned counsel for the Appellant has further drawn the attention of this Court to the Notification dated 21.05.2018 issued by Government of India, Ministry of Defence for reservation/preference to the wards of Armed Forces personnel for admission to Medical/Professional/Non-Professional Courses and states that there is specific reservation for wives of defence



personnel disabled in action and boarded out from service, defence personnel disabled in service and boarded out with disability attributable to military service. He states that there are reservations for wards of Armed Forces personnel killed in action during war and peace with death attributable to military service. He states that there must be reservation for wards of Armed Forces personnel who have been invalidated from service/physically handicapped. According to him, unless such reservation is not granted, wards of such Armed Forces personnel having been invalidated from service will never get an opportunity of coming up in life.

8. The Appellant has also placed reliance on the judgment dated 12.09.2012 passed by Division Bench of this Court in Anmol Bhandari v. Delhi Technological University, W.P.(C) 4853/2012 and Order dated 08.07.2020 passed by the Apex Court in Aryan Raj v. Chandigarh Administration & Ors., Civil Appeal No.2718/2020.

9. *Per contra*, learned Counsel for the Respondents, contends that the Appellant did not qualify in the Class 6 entrance examination for admission to the Rashtriya Military School, and, therefore, was not called for the interview. She submits that the Rashtriya Military Schools function under aegis of the Ministry of Defence and the admission to these Schools are governed by Army Order 6/2007/GS and GoI, MoD (Army) letter No. A/ 84019 / CGC-2020 / GS / MT-15 / III / 39 / US (SSC) / D(GS-II) dated 18.01.2021.

10. The learned Counsel for the Respondent states that under the reservation of seats to be filled in Rashtriya Military schools through Common Entrance Test, 70 per cent of seats are reserved for the Entitled Category, i.e. for wards of JCOs/OR of Army and their equivalent in Navy and Air Force, and 30 per cent of seats are reserved for non-entitled



category, i.e. wards of officers of Army and their equivalent in Navy and Air Force and Civilians combined. She states that 27 per cent seats within the entitled and non-entitled category are reserved for wards of OBC candidates of non-creamy layer and overall reservations will not exceed 27%, 15% and 7.5% respectively for OBC, SC and ST candidates. The abovementioned two categories in addition to the 50 seats are reserved for wards of Armed Forces personnel killed in action during war and peace, and 10 per cent seats are reserved for girl candidates from Academic Session 2022-23. She, therefore, contends that there is no specific reservation for wards of Armed Forces personnel who have been invalidated due to disability. It is the submission of the learned Counsel for the Respondents that the children of Ex-Serviceman, who had been invalidated from service, are not entitled to any special reservation.

11. Heard learned counsel for the parties and perused the material on record.

12. A perusal of the records indicates that there is no reservation for admission to children of Armed Forces personnel who have been invalidated due to disabilities and 70 per cent of the seats reserved for the Entitled Category are to be filled up by wards of JCOs/OR. Further, there are seats reserved for wards of Armed Forces personnel who died in action in war and peace.

13. In the absence of any reservation, this Court while exercising its jurisdiction under Article 226 of the Constitution of India cannot direct specific reservation for the Appellant. In the absence of any reservation for wards of Armed Forces Personnel who have been invalidated due to disability, the Appellant cannot claim that he is entitled to be called for



interview as a matter of right and a writ cannot be issued to the authorities without any right.

14. The judgments relied on by the Appellant do not apply to the facts of the present case inasmuch as in both these cases, the Petitioners were suffering from a disability and were entitled to the benefit of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. In the present case, the Appellant does not suffer from any disability and is a child of Armed Forces personnel who has been invalidated due to disability, and, therefore, these two judgments will apply to the facts of the present case and will not come to the rescue of the Appellant.

15. This Court does not find any infirmity in the judgment passed by the learned Single Judge. The LPA is dismissed. Pending applications, if any, stand disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

SEPTEMBER 28, 2022

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