IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No. 1265 of 2024

Manoj Singh Dashuani ... Petitioner

Versus

United India Insurance Company Ltd. & Others ... Respondents

Mr. Neeraj Singh Kazra, Advocate, for the petitioner.

Mr. Naresh Pant, Advocate, for the respondent no. 1.

Mr. Manoj Kumar, Central Govt. Standing Counsel, for the respondent no. 2 and 3.

Mr. Shobhit Joshi, Advocate, for the respondent no. 4.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.

Petitioner and respondent no. 4 claimed benefit available to disabled ex-servicemen in a selection for the post of Assistant, held by United India Insurance Company Ltd. Condition of eligibility for disabled ex-servicemen, as mentioned in the advertisement dated 14.12.2023, is as follows:

> *"**5.b. DISABLED EX-SERVICEMEN (DISXS):** Ex-servicemen who while serving in Armed Forces of the union were disabled in operation against the enemy or in disturbed areas shall be treated as DISXS."*

2. Since respondent no. 4 was selected and recommended for appointment against the lone post, therefore, petitioner has filed this writ petition seeking the following reliefs:

> *"I) Issue a writ, order or direction in the nature of certiorari*

quashing the impugned result declared by respondent no. 1 for Uttarakhand Post on 26.06.2024 issued notification/ letter no. HO:HRM;ASSISTANT/05/2024 of the Provisional Short Listed Candidates for Pre-Employment Medical Examination to the extent of inclusion of non Dixus candidates and non-inclusion of petitioner and addition of new word "attributablility certificate for Ex-Servicemen/Disabled Ex-servicemen" in the Provisional Short Listed Candidates for Pre-Examination Medical Examination, which has led to inclusion of non eligible candidates who did not do service in operation against the enemy or in disturbed areas and got disability. (contained as Annexure no. 5 to this writ petition.

II) Issue a writ order or direction in the nature of mandamus commanding and directing the respondent no. 1 to forthwith direct for re-verification of documents falling under the caption of DISABLED EX-SERVICEMEN (DISXS) in true sense of meaning as expressed in initial notification dated 14.12.2023 and expeditiously conclude the process in favour of candidates who have disability certificate of operation against the enemy or in disturbed areas and particularly excluding the candidates who have attributability certificates of peace time inasmuch the same amounts to changing the rules of the game after the game has started.

III) Issue a writ order or direction in the nature of mandamus commanding and directing the respondent no. 1 to declare petitioner as successful being the sole candidate who got disability in disturbed areas within the meaning of the initial advertisement.

IV) Issue a writ order or direction in the nature of mandamus commanding and directing the respondent no. 2 & 3 to produce all documents concerned with the meaning

of Ex-Servicemen, Disabled Ex-Servicemen and Disturbed area."

3. Petitioner contends that respondent no. 4 is not eligible for the benefit meant for disabled ex-servicemen, as whatever medical condition is suffered by him was diagnosed while he was posted in peace station, while benefit is available only to those who suffered disability in operation against the enemy or in disturbed areas.

4. It is contended on behalf of respondent no. 4 that as per the discharge certificate, issued to him by the Army authorities, he suffered following three disabilities:

(i) ACL TEAR LEFT KNEE (OPTD)

(ii) INFLAMMATORY ARTHRITIS

(iii) PLEUROPULMONARY TUBERCULOSIS

5. Learned Counsel for the respondent no. 4 refers to page 23 of his counter affidavit for contending that Army authorities have certified that the first and third disability suffered by respondent no. 4 were attributable to Army service, while the second disability suffered by him was aggravated by Army service. He submits that respondent no. 4 was serving in 3rd Bihar Regiment and the first disability suffered by him was diagnosed at Dera Baba Nanak (Punjab), which is modified field posting and that place is less than five kilometers from the international border with Pakistan; the second disability suffered by respondent no. 4 was diagnosed at Jamnagar (Gujarat), which is a peace station, while the third disability was diagnosed at

Rhenock (Sikkim), which was again a field posting near international border with China.

6. Mr. Pranav Pradeep Saxena, Deputy Manager (HR), United India Insurance Co. Ltd., Head Office, Chennai is present in Court in sequel to order dated 6.4.2026. He points out that respondent no. 4 scored 114.38 marks out of 250, while petitioner's score in the selection was only 96.88 marks out of 250. He further submits that since the Army authorities have certified that the medical condition suffered by respondent no. 4 is attributable/aggravated by Army service, therefore, employer did nothing wrong by giving benefit which are available to disabled ex-servicemen, as per Clause 5(b) of the advertisement dated 14.12.2023. He has produced in Court the proceedings of medical board, which reportedly was enclosed with the discharge certificate issued by Army authorities to the petitioner, which is taken on record and is paginated. Perusal of the said certificate reveals that on the question whether disability suffered by petitioner is attributable or aggravated by the Army service, the medical board opined as under:

> *"Multifactorial disorder with a genetic predisposition. No history suggestive of infection, trauma or service condition. No cause identified preceding the illness. Hence, held not attributable.*
>
> *However the disease is known to be aggravated by variable climates and terrain and due to stress and strain of*

military service. Hence aggravation conceded."

7. This Court finds substance in the contention raised on behalf of respondent no. 4. Army authorities have opined that petitioner's medical condition had a genetic predisposition and it was not attributable to Army service, although it may have aggravated because of his posting at hard stations. On the other hand, as per discharge certificate of respondent no. 4, he suffered three medical conditions, out of which two were attributable and one was aggravated by Army service.

8. Learned Counsel for the petitioner refers to an Office Memorandum, issued by Government of India, Ministry of Personnel, Public Grievances & Pensions on 25.12.2025, for contending that respondent no. 4 can get benefit of ex-servicemen only and he is not entitled to benefits available to disabled ex-servicemen. For raising this contention, learned Counsel for the petitioner refers to the following clause of the said Office Memorandum:

> "Priority for the purpose of appointment to Group C and Group D posts under the Central Government filled by direct recruitment has been provided for ex-servicemen disabled either during the war or in peace time but their disability being attributable to military service. Such persons will be accorded priority along

with retrenched employees of the Government."

9. Learned Counsel for the respondent no. 4, per contra, submits that the Office Memorandum issued on 25.12.2025 cannot have retrospective application to a selection process which was initiated in 2023. He further submits that even otherwise also, case of respondent no. 4 is covered by the aforementioned clause inasmuch as his disability has been certified to be attributable to Army service, while petitioner's disability was not so certified. Thus it is contended that respondent no. 4 has better claim for benefit available to disabled ex-servicemen because of the nature of disability suffered by him.

10. Learned Counsel for the employer refers to para 9 of the rejoinder affidavit, where petitioner stated that "The present writ petition does not challenge the personal eligibility of Respondent No. 4 but challenges the legality of the recruitment process".

11. This Court finds substance in the contentions raised on behalf of respondents. As per the advertisement, a post was reserved for disabled ex-servicemen. United India Insurance Company Ltd does not have any independent mechanism to ascertain which disability is attributable to Army service and which is not, therefore the authorities of the said company are to be guided by the stipulation made in the discharge certificate, issued

by Army authorities regarding nature of disability. Going by the stipulation made by the Army authorities in the relevant documents prepared at the time of discharge of petitioner and respondent no. 4, any reasonable man would come to the conclusion that the disability suffered by petitioner is not attributable to Army service, while disability suffered by respondent no. 4 is attributable to Army service. Learned Counsel for respondent no. 4 is right in submitting that petitioner is eligible for appointment against the vacancy earmarked for disabled ex-servicemen in terms of the Office Memorandum dated 25.12.2025, issued by the Government of India, as disability suffered during peace time makes a person eligible for benefit available for disabled ex-servicemen, provided such disability is attributable to Army service. Even otherwise also, petitioner scored only 96.88/250 marks, while respondent no. 4 scored 114.38/250 marks in the selection in question, therefore even if both petitioner and respondent no. 4 are treated at par for benefit of reservation available to disabled ex-servicemen, then also respondent no. 4 has better claim for appointment in view of his higher score of marks in the selection.

12. Thus, in any way of the matter, selection of respondent no. 4 cannot be interfered with and the reliefs claimed in the writ petition cannot be granted. The writ petition thus fails and is dismissed. Interim order dated 18.7.2024 is vacated.

13. The employer shall be at liberty to offer appointment to the selected candidates, including respondent no. 4, subject to their fulfillment of other conditions of eligibility, as per merit.

(Manoj Kumar Tiwari, J.)
21.4.2026

Pr

PRABODH KUMAR