



2026:DHC:4516-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6799/2026, CM APPLs. 33343/2026 & 33344/2026
UNION OF INDIA AND ORSPetitioners
Through: Mr. Mukul Singh, CGSC with
Mr. Aryan Dhaka and Ms. Sunidhi Tyagi,
Advs.
versus
DHARMENDRA KUMAR
VIDYARTHI AND ORSRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **18.05.2026**

OM PRAKASH SHUKLA, J.

1. Through the present petition, the Petitioners has assailed the correctness of the order dated 15.10.2024¹, passed in Original Application No.² 3967/2016, whereby the learned Central Administrative Tribunal³ had directed the Petitioners to consider and appoint Respondent No. 1, 2 and 4. The Petitioners herein are aggrieved by the impugned order to the limited extent that the O.A. was allowed with respect to the relief sought by Respondent No. 4 herein.

2. As the issue in consideration is short, only the relevant facts are discussed hereunder.

3. Shri Amit Kumar (Respondent No. 4 herein), an ex-serviceman,

¹ "impugned order", hereinafter

² "O.A.", hereinafter

³ "Tribunal", hereinafter



applied for and participated in the Combined Graduate Level Examination, 2013⁴ conducted by the Staff Selection Commission⁵ (Respondent No.5 herein) for recruitment to various posts under different Ministries/Organisations of the Union of India.

4. The notification for the said examination was issued in January, 2013 and the selection process comprised multiple stages. Respondent No. 4 had applied for the said examination while he was still in Nation's Defence services. He was discharged on 31.01.2013.

5. The Tier-I examination was conducted on 21.04.2013. Respondent No. 4 qualified the Tier-I examination and thereafter, appeared in the Tier-II examination conducted on 29.09.2013. However, owing to allegations of large-scale irregularities, the entire selection process was scrapped and the examination process was re-conducted.

6. Pursuant thereto, the Tier-I re-examination for CGLE, 2013 was conducted on 27.04.2014, in which Respondent No. 4 again qualified and thereafter appeared in the Tier-II stage conducted on 21.09.2014. Subsequently, he was called for interview and document verification in January, 2015.

7. The final result of CGLE, 2013 came to be declared on 12.03.2015, in which Respondent No.4 was declared to be selected for the post of Auditor under the Ex-servicemen quota in the Controller of

⁴ "CGLE, 2013", hereinafter

⁵ "SSC", hereinafter



Defence Accounts Ridge Road, Jabalpur (Petitioner No. 3 herein).

8. Pursuant thereto, upon receipt of the dossier of Respondent No. 4 from the SSC, the Petitioners forwarded the requisite attestation forms and other documents to him *vide* communication dated 29.09.2015 for completion of pre-appointment formalities.

9. During scrutiny of the attestation forms submitted by Respondent No. 4, the Petitioners noticed that he was already employed as Customer Assistant in the State Bank of India, Deoghar Branch, after availing benefits given to Ex-servicemen, with effect from 10.04.2013 after being discharged from the Nation's Defence services.

10. According to the Petitioners, since Respondent No. 4 had already availed the benefits available to ex-servicemen while securing appointment in the State Bank of India, his status as an ex-serviceman for the purpose of subsequent employment stood extinguished in view of the Office Memorandum⁶ dated 02.05.1985 issued by the Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training⁷.

11. In terms of the O.M. dated 02.05.1985, once an ex-serviceman joins civil employment after availing the benefit of reservation available to ex-servicemen, his status as an ex-serviceman for the purpose of subsequent Government employment ceases. Subsequently, *vide* O.M. dated 07.11.1989, it was clarified that the aforesaid O.M. dated

⁶ "O.M.", hereinafter

⁷ "DoPT", hereinafter



02.05.1985 would not apply to those ex-servicemen who had been re-employed in Private Companies, Autonomous Bodies, Public Sector Undertakings or Government Offices on casual, contract, temporary or *ad hoc* basis and who could be removed from such service at any time by the employer concerned.

12. Accordingly, placing reliance upon the O.M. dated 02.05.1985 and 07.11.1989, the Petitioners *vide* communication dated 26.07.2016 returned the dossier of Respondent No. 4 to the SSC stating the following:-

“The matter has been examined in this Department and it has been decided not to grant one-time relaxation to those candidates who had already joined civil employment before 14.08.2014 and had secured such employment by availing the benefit of reservation available to Ex-servicemen, as the same may open a Pandora’s box of similar claims and cause injustice to other Ex-servicemen candidates, besides leading to litigation before various courts of law.”

(emphasis supplied)

13. Being aggrieved by the order dated 26.07.2016, Respondent No. 4 filed O.A. No. 3967/2016 before the learned Tribunal, primarily placing reliance upon the O.M. dated 14.08.2014, whereby it was clarified that where an ex-serviceman had applied for multiple vacancies before joining any civil employment after release or discharge from the Armed Forces, he would continue to remain entitled to claim the benefit available to ex-servicemen in those recruitment processes for which he had applied prior to joining such civil employment, notwithstanding his joining another civil post in the *interregnum*.



14. In light of the O.M. dated 14.08.2014, Respondent No. 4 sought quashing of the order dated 26.07.2016 to the extent that it denied him the benefit of ex-servicemen status for appointment pursuant to his selection in CGLE-2013, along with a direction to the Petitioners to appoint him to the nominated post with all consequential benefits, including seniority and monetary benefits.

15. The learned Tribunal, by way of the impugned order, observed that although Respondent No. 4 had joined his earlier employment prior to the O.M. dated 14.08.2014 after availing the benefit under the Ex-servicemen quota, his employment in a nationalised bank i.e. State Bank of India was not against a civil post under the Central Government. Accordingly, the learned Tribunal held that Respondent No. 4 was entitled to the benefit of the O.M. dated 14.08.2014 and directed the Petitioners to consider and appoint him to the nominated post with consequential benefits on a notional basis.

16. Aggrieved thereby, the Petitioners have approached this Court by means of the present writ petition.

17. We have heard Mr. Singh, learned Counsel for the Petitioners at considerable length.

18. At the outset, it is pertinent to note that the prayer in the writ petition is confined to Respondent No.4

19. Mr. Singh submits that the learned Tribunal erred in extending the benefit of the O.M. dated 14.08.2014 to Respondent No. 4,



inasmuch as the said O.M. itself makes it explicit in para 5 that the benefit would operate only from the date of its issuance, whereas Respondent No. 4 had already joined as a Customer Assistant in the State Bank of India on 10.04.2013 after availing benefits available to Ex-servicemen, and therefore, his status as an ex-serviceman for the purpose of further re-employment had already ceased in terms of the O.M. dated 02.05.1985.

20. It is further contended that even otherwise, the benefit of the O.M. dated 14.08.2014 could not have been extended to Respondent No. 4 as the said O.M. itself required submission of a self-declaration/undertaking containing date-wise particulars of applications made prior to joining the initial civil employment, which was never furnished by Respondent No. 4.

21. In light of the submissions raised before us by Mr. Singh, the only issue which arises for our consideration is whether the learned tribunal was correct in holding that Respondent No. 4 would be entitled to avail the benefit of the O.M. dated 14.08.2014 issued by the DoPT.

22. As the present issue is in regard to applicability of O.M. dated 14.08.2014, the said is reproduced below for our consideration:

2. Vide this Department's O.M. No. 36034/27/84-Estt.(SCT) dated 02.05.1985, it was decided that once an ex-serviceman has joined the Government job on civil side after availing of the benefits given to him as an ex-serviceman for his re-employment, his ex-serviceman status for the purpose of re-employment in Government would cease. It was also decided that on his joining the civil employment, he would be deemed to be a civil employee and would accordingly be entitled to only such of the benefits like relaxation of



age etc. as admissible to civil employees in the normal course. Vide this Department's O.M. No. 36034/21/87-Estt.(SCT) dated 07.11.1989, it was clarified that the instructions of 02.05.1985 shall not apply to those ex-servicemen who have been re-employed or are re-employed by private companies/autonomous bodies/public sector undertakings/government offices on casual/contract/temporary ad-hoc basis and who can be removed from such service at any time by their employer concerned.

3. An ex-serviceman at the time of his release or discharge from the armed forces normally applies for more than one vacancy, but in case he/she joins any civil employment due to early declaration of results/selection, he/she is not entitled for the benefit of reservation for ex-servicemen for subsequent employment. It has been brought to the notice of this Department that the aforesaid instructions are affecting the chances of ex-servicemen in the case of direct recruitment for subsequent suitable employment.

4. The matter has, therefore, been considered in consultation with Department of Ex-servicemen, Ministry of Defence. It has now been decided that if an ex-serviceman applies for various vacancies before joining any civil employment, he/she can avail of the benefit of reservation as ex-serviceman for any subsequent employment. However, to avail of this benefit, an ex-serviceman as soon as he/she joins any civil employment, should give self-declaration/undertaking to the concerned employer about the date-wise details of application for various vacancies for which he/she had applied for before joining the initial civil employment. Further, this benefit would be available only in respect of vacancies which are filled on direct recruitment and wherever reservation is applicable to the ex-servicemen.

5. The above Orders shall take effect from the date of issue of this Office Memorandum.

(emphasis supplied)

23. In our reading, the O.M. dated 14.08.2014 was issued to ease the specific hardships that had arisen on account of the earlier O.M.s dated 02.05.1985 and 07.11.1989. Under the said O.M.s, once an ex-serviceman joined civil employment after availing the benefit of reservation or relaxation available to ex-servicemen, he ceased to retain the status of an ex-serviceman for the purposes of subsequent



Government employment.

24. Due to the difficulties that had arisen with the same, the matter was re-considered where the Government itself took note of the practical difficulties arising from the aforesaid position.

25. It was recognised that an ex-serviceman, at the time of release or discharge from the Armed Forces, ordinarily applies for multiple vacancies and participates in several recruitment processes simultaneously.

26. In such a situation, by application of the O.M.s dated 02.05.1985 and 07.11.1989, merely because the result of one recruitment examination was declared earlier and the candidate joined the said post, he used to automatically lose the benefit of reservation and relaxation available to ex-servicemen in all subsequent recruitment processes, notwithstanding the fact that he had applied for such posts prior to joining the earlier civil employment.

27. The above reproduced O.M. dated 14.08.2014 indicates to us that the aforesaid position was found to be adversely affecting ex-servicemen opportunities of securing suitable employment through direct recruitment. It is precisely to cure this mischief that the O.M. dated 14.08.2014 came to be issued by the DoPT.

28. By way of said O.M., it was decided that where an ex-serviceman had applied for various vacancies before joining any civil employment, he would continue to remain entitled to avail the benefit available to an



ex-serviceman for such subsequent recruitment processes as well for which the application was made earlier, subject to furnishing the prescribed declaration/undertaking regarding the details of applications submitted prior to joining the initial civil employment.

29. Thus, having understood the object and scheme of the O.M. dated 14.08.2014 noted above, we now proceed to examine its applicability to the facts of the present case.

30. In the present case, it is not in dispute that the Respondent No. 4 had secured employment as Customer Assistant in the State Bank of India on 10.04.2013 after availing the benefits available to ex-serviceman. Equally, it is undisputed that the Respondent No. 4 had applied for CGLE, 2013 prior to joining the said post at State Bank of India.

31. It is also an admitted position that the recruitment process pertaining to CGLE, 2013, culminated only upon declaration of the final result on 12.03.2015, i.e. after the issuance and coming into force of the O.M. dated 14.08.2014.

32. In the aforesaid facts, we find that the contention of the Petitioners that the status of the Respondent No. 4 as an ex-serviceman stood completely extinguished immediately upon his joining employment in 2013, in terms of O.M.s dated 02.05.1985 and 07.11.1989, cannot be accepted when viewed with the O.M. dated 14.08.2014.



33. Undoubtedly, under the earlier O.M.s dated 02.05.1985 and 07.11.1989, an ex-serviceman, upon joining civil employment after availing the benefit of reservation, ceased to retain such status for the purposes of subsequent re-employment. However, we find that the O.M. dated 14.08.2014 carved out a specific exception in favour of those ex-servicemen who had applied for multiple recruitment processes prior to joining civil employment.

34. In light of such exception, while the general principle regarding cessation of ex-serviceman status upon joining civil employment continued to operate, the O.M. dated 14.08.2014 consciously protected those candidates who had already entered the zone of consideration for subsequent recruitments by filling forms before joining such civil post.

35. While examining its applicability, we find it relevant to also emphasize that it is well settled that a beneficial and remedial provision has to receive a liberal and purposive construction so as to advance the object sought to be achieved rather than defeat it on technical considerations.⁸ Therefore, in our view, the provisions of the O.M. dated 14.08.2014 has to be read in a manner to make its application consistent with the object sought to be achieved thereby.

36. In the present case, the Respondent No. 4 had admittedly submitted his application for CGLE, 2013 at a point of time when he continued to hold the status of an ex-serviceman and had not yet entered civil employment.

⁸ Union of India v. Mukul Dev, 2026 SCC OnLine Del 724; Brahampal v. National Insurance Co., (2021) 6 SCC 512; Union of India v. Prabhakaran Vijay Kumar (2008) 9 SCC 527



37. Further, although the Respondent No. 4 joined another employment subsequently, the selection process pursuant to CGLE, 2013 remained pending and culminated in 2015 i.e. after the O.M. dated 14.08.2014 had already come into force. Therefore, on the date when the candidature of the Respondent No. 4 was actually considered for selection and appointment pursuant to CGLE, 2013, the O.M. dated 14.08.2014 was already in effect as per para 5 of the said OM.

38. Thus, when viewed in entirety, in our consideration, once the Respondent No. 4 fulfilled the essential condition contemplated under the O.M. dated 14.08.2014 that he had applied for the subsequent recruitment process prior to joining civil employment, the benefit of available to ex-servicemen could not have been denied to him merely because he had joined another civil post before declaration of the final result of CGLE, 2013 in terms of the O.M. dated 14.08.2014.

39. Therefore, we find no reason as to why the benefit of the O.M. dated 14.08.2014 ought not to be extended to the Respondent No. 4 herein.

40. As regards the other contention sought to be raised on behalf of the Petitioners that no declaration or undertaking in terms of the O.M. dated 14.08.2014 had been furnished by the Respondent No. 4, we do not find any merit in the said submission.

41. From the reply filed before the learned Tribunal as well as the material placed on record, we find that this was never the case set up by



the Petitioners before the learned Tribunal.

42. From our perusal of the record, it appears that the consistent stand of the Petitioners had been that upon joining at State Bank of India, the Respondent No. 4 ceased to retain the status of an ex-serviceman and, therefore, was not entitled to claim the benefits available with ex-servicemen in the subsequent recruitment process.

43. Having taken such a stand before the learned Tribunal, the Petitioners cannot now be permitted to raise an altogether new plea at this stage that the requisite undertaking had not been furnished, particularly when the impugned order itself does not reflect that any such contention was argued before the learned Tribunal.

44. For the aforesaid reasons, we agree with the learned Tribunal that Respondent No. 4 would be entitled to the benefit of para 4 of the DoPT O.M. dated 14.08.2014.

45. The writ petition is, accordingly, dismissed in *limine*.

46. The Petitioners shall comply with the impugned order passed by the learned Tribunal within a period of four weeks from today.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

MAY 18, 2026/ss/gunn

Signature Not Verified

Signed By: ANUBHAW.P.(C) 6799/2026
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Signing Date: 20.05.2026
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