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

+ W.P.(C) 10257/2019

SURESH KUMAR KAUSHIK & ORS

.....Petitioners

Through: Mr. Biswajit Kumar Patra, Ms.
Khushboo Gupta, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS

.....Respondents

Through: Mr. Naushad Ahmed Khan, Ms.
Archana Chaudhary, Ms. Prajna
Pandita, Advocates.
Mr. Ayushman, Mr. Vaibhav Sood,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **12.02.2026**

1. The Petitioners were recruited as Home Guards under the Bombay Home Guards Act, 1947 as extended to the National Capital Territory of Delhi, and the Delhi Home Guards Rules, 1959 framed thereunder. Their engagement was for a fixed tenure, initially three years, in terms of Rule 8. They assert that, between 1998 and 2005, their engagement was brought to an end by invoking Rule 8, even though their performance was satisfactory.

Factual Background

2. The heart of the present case is not the fact of discharge itself, but the aftermath. The Petitioners contend that, once discharged, they ought to have been “rehabilitated” by absorption into Group ‘C’ and ‘D’ posts in Government departments such as Police, Armed Police and Prisons, with age relaxation, on the footing of a policy reflected in communications issued by the Government of NCT of Delhi and the Ministry of Home Affairs. The



Petitioners also rely upon subsequent correspondence between the Government of NCT of Delhi, the Directorate of Home Guards, and Delhi Police, where a proposal for 5% reservation in certain posts was mooted but did not fructify.

3. In a prior round [W.P.(C) No. 2075/2018], this Court disposed of a petition on 6th March, 2018, granting liberty to the Petitioners to submit a concise representation and directing its disposal by a speaking order within a stipulated time. The representation was thereafter dealt with by an order dated 7th December, 2018, and the contempt proceedings instituted by the Petitioners were closed, with liberty to pursue remedies, in accordance with law.

4. The Petitioners seek (i) a direction to “absorb” the Petitioners by providing 50% reservation of vacancies in suitable Group ‘C’ and ‘D’ posts, (ii) a direction to Delhi Police to act expeditiously on the proposal for 5% reservation urged by the Government of NCT of Delhi and the Directorate of Home Guards, and (iii) a direction for age relaxation for the Petitioners in such recruitment.

Petitioner’s Case

5. The Petitioners’ claim for rehabilitation is rooted in the policy reflected in the GNCTD circular dated 10th September, 1999. According to the Petitioners, the circular recognises that trained Home Guards/Civil Defence volunteers who have rendered at least three years’ service ought to be given preference for appointment to Group ‘C’ and ‘D’ posts where the training received is an added advantage, subject to fulfilment of the essential eligibility conditions. The circular also records that the Ministry of Home Affairs had appreciated the practice adopted by States such as Bihar and



Madhya Pradesh of providing substantial reservation in police/armed police/jails for Home Guards and noted that those examples ought to be emulated, even if recruitment rules require suitable amendment.

6. It is urged that despite repeated representations over the years, the said policy objective has not been operationalised in Delhi in any meaningful manner. The Petitioners contend that the prolonged inaction has defeated the purpose of the welfare measure itself, because most discharged Home Guards, including the Petitioners, have now crossed the age limit for ordinary direct recruitment to Group 'C' and 'D' posts. They submit that, without age relaxation and a structured preference or earmarking mechanism, the policy remains a paper assurance.

7. The Petitioners further submit that the issue was not merely historical, but continued to be under consideration even in recent years. They point out that Respondent No. 1, through letters dated 2nd January, 2018 and 24th January, 2019, and Respondent No. 3, through letter dated 26th February, 2019, requested Respondent No. 2 (Delhi Police) to consider a proposal for 5% reservation for Delhi Home Guards in recruitment to Group 'C' and 'D' posts. According to the Petitioners, Delhi Police has not taken the proposal to a final conclusion, and the continuing indecision, in their submission, is arbitrary and constitutionally infirm.

8. The Petitioners emphasise that the object of the 1999 policy was rehabilitation of discharged Home Guards who had received training, acquired field experience, and served the State, but were disengaged after a short tenure under the statutory scheme. They submit that the State's failure to translate this objective into a workable arrangement has left them without a dignified livelihood, notwithstanding years of public service. They add



that utilisation of their trained experience in allied Group ‘C’ and ‘D’ roles would serve the public interest as well.

9. On legal principles, the Petitioners submit that this Court can issue a writ of mandamus to enforce a public duty arising from an adopted policy, and to prevent arbitrariness and discriminatory treatment under Articles 14 and 16 of the Constitution. They also invoke Article 21 to urge that denial of any meaningful rehabilitation, in the face of an acknowledged welfare framework, results in deprivation of livelihood in an unfair and unreasonable manner.

10. The Petitioners clarify that they are not seeking regularisation as Home Guards or a declaration that Home Guards are regular civil posts. Their limited prayer is for rehabilitation by way of a structured preference/quota and consequential age relaxation for recruitment to suitable Group ‘C’ and ‘D’ posts in Government departments, consistent with the policy direction in the circular dated 10th September, 1999 and the manner in which comparable measures have been implemented in other States.

11. In sum, the Petitioners contend that the Respondents, as public authorities, cannot allow a rehabilitation policy acknowledged in official circulars and reiterated through inter-departmental correspondence to remain unimplemented for decades, thereby frustrating its purpose and leaving discharged Home Guards remediless solely because time has passed.

Respondents’ Stand

12. The Respondents oppose the petitions primarily on the ground that Home Guards are a volunteer force with a stipulated tenure. Reliance is placed on the law declared by the Supreme Court, including the holding that Home Guards in Delhi are volunteers engaged under the statute and cannot



claim regularisation of service.

13. The Respondents further submit that rehabilitation measures have, in fact, been pursued over the years within the framework of the Rules, including amendments enabling discharged volunteers to apply afresh, grant of bonus marks/weightage, enhancement of age limits by later amendments, and re-engagement drives for specific assignments (such as Bus Marshals) depending on exigencies. They also point out that the proposal of 5% reservation in Delhi Police did not receive consent on feasibility grounds, and that the issue lies within policy and rule-making domain.

Analysis and Findings

14. The record and the submissions crystallise three questions:

- (i) Whether the Petitioners possess an enforceable right to a mandamus directing the State to create a 50% reservation or an absorption channel for discharged Home Guards into Group 'C' and 'D' posts;
- (ii) Whether the GNCTD circular dated 10th September, 1999 creates a binding obligation, or at least a legally enforceable legitimate expectation; and
- (iii) Whether this Court can, in writ jurisdiction, compel adoption of a particular reservation proposal, including by directing Delhi Police to accept and implement such a proposal.

The legal character of Home Guards in Delhi

15. The starting point is the legal status of Home Guards in the NCT of Delhi. The Supreme Court has treated Home Guards in Delhi as members of a volunteer organisation under the governing Act and Rules, and has



rejected claims for regularisation or for being treated as regular appointees.¹

16. The Respondents' stand is consistent with the statutory framework. The Delhi Home Guards Rules, 1959 prescribe a stipulated tenure and contemplate discharge on completion of that tenure. Over the years, the Rules have also been amended to introduce avenues such as re-enrolment as a fresh volunteer, bonus marks/weightage and subsequent measures enabling re-engagement to meet short-term requirements in emergent situations. These measures reinforce the voluntary character of the organisation, while simultaneously acknowledging that rehabilitation is a matter of policy, pursued through rule-making and administrative measures.

Limits of mandamus in matters of reservation and policy

17. The Petitioners seek a writ of mandamus to reserve 50% vacancies and to create a structured absorption route in Group 'C' and 'D' posts across departments, coupled with age relaxation.

18. A writ of mandamus is issued to enforce a legal right and a corresponding public duty, and cannot be used to create a right where none exists, or to command the State to legislate or frame a particular policy. Reservation in public employment stands on the same footing. It bears emphasis that the reservation sought is not one that falls within Articles 16(4) or 16(4A) of the Constitution of India. Article 16(4) concerns reservation for "backward class of citizens" and Article 16(4A) is confined to reservation in promotion for Scheduled Castes and Scheduled Tribes. The Petitioners claim neither. Their prayer is for a separate recruitment channel or quota for discharged Home Guards on the strength of prior voluntary

¹ Grah Rakshak, Home Guards Welfare Association v. State of Himachal Pradesh, SLP(C) No. 12858/2009, decided on 11th March, 2015.



service and training. Conceptually, such a measure, if the State so chooses, would have to be justified as a permissible classification under Article 16(1), akin to other service-linked preferences that operate through policy and recruitment rules.

19. That distinction, however, does not advance the Petitioners' case on the central point of justiciability. Whether traced to Article 16(4), Article 16(4A), or justified as a classification within Article 16(1), reservation in public employment remains a policy decision and statutory or rule-based framework. The constitutional provisions enabling reservation do not impose a duty to create it. The Supreme Court has repeatedly held that Articles 16(4) and 16(4A) are enabling provisions and confer no enforceable right upon any individual to demand reservation by mandamus. A writ court cannot command the State to frame, extend, or structure a reservation policy in a particular manner.²

20. The same restraint applies with equal force where the prayer is pitched, as here, as a demand for a fixed quota, absorption, or a recruitment carve-out for a service-based category. Such directions would require the Court to step into the rule-making domain by designing eligibility norms, calibrating cadre impact, prescribing age relaxations, and amending recruitment rules across departments. That is not the function of judicial review. Judicial review can test a policy once the competent authority makes it. It cannot author the policy in the first place.³

The circular dated 10th September, 1999

21. The Petitioners' case hinges on the circular dated 10th September,

² Mukesh Kumar v. State of Uttarakhand, (2020) 3 SCC 1.

³ Suresh Chand Gautam v. State of U.P., (2016) 11 SCC 113.



1999. On a fair reading, the circular does not create a recruitment rule, nor does it declare a binding reservation. It requests departments of the Delhi Government to give “preference” in Group ‘C’ and ‘D’ posts to eligible Home Guards/Civil Defence volunteers who have rendered at least three years’ service and have undergone prescribed training, where such training is an added advantage, subject to fulfilment of essential eligibility conditions. It further records that the examples of Bihar and Madhya Pradesh “need to be emulated” and adds that recruitment rules “may” be amended, “if need be”, to give similar concessions.

22. The language and the structure of the circular place it in the realm of policy guidance and inter-departmental coordination. It is not, by itself, a source of entitlement to a quantified reservation, much less a 50% quota. In service jurisprudence, recruitment and reservation ordinarily flow from statutory rules or rules framed under the competent rule-making power. An administrative circular of this nature cannot, on its own, compel creation of posts, carve out quotas, or rewrite recruitment rules.

Legitimate expectation

23. The Petitioners also invoke the doctrine of legitimate expectation on the premise that the 1999 circular contemplates rehabilitation through preference or reservation. The doctrine operates as a control on unfairness in decision-making. Even where a legitimate expectation is established, it does not automatically crystallise into a substantive right to the precise benefit claimed. Courts examine whether denial is arbitrary, irrational, or procedurally unfair, and whether overriding public interest justifies a different course.

24. Here, the “expectation” asserted is pitched at the highest level,



namely, a binding command to create reservation/absorption across departments with age relaxation. That is not a promise capable of judicial enforcement in the absence of a statutory foundation. At best, the circular could sustain a plea that the Government may consider rehabilitation measures within the bounds of law; however, it cannot sustain the mandamus sought.

Reliance on practices of other States

25. The reference to Bihar and Madhya Pradesh providing 50% reservation for Home Guards also does not carry the Petitioners across the legal threshold. A welfare measure adopted by one state does not create an enforceable right to identical treatment by another. Article 14 does not operate as a “most favoured policy” clause across states. A claim founded merely on what another state has chosen to do is, in substance, an invitation to convert comparative policy into a constitutional command, which Article 14 does not permit.

The 5% proposal with Delhi Police

26. The record indicates that GNCTD and the Directorate of Home Guards corresponded with Delhi Police on a proposal of 5% reservation in Group ‘C’ and ‘D’ posts; however the Delhi Police did not accept the proposal, stating that such reservation was not feasible, and the matter continued in the policy corridor.

27. Even this narrower aspect cannot be converted into a writ directing Delhi Police to accept a reservation proposal. In a domain involving recruitment rules and reservation policy, the Court may require the authority to take a decision where a clear legal duty exists to decide. It cannot command the outcome, particularly where the field is one of discretion and



policy.

28. The Respondents have also placed on record a series of rule-based rehabilitation measures over time, including enabling re-enrolment of discharged volunteers as fresh candidates subject to fulfilment of certain conditions, raising the age ceiling for enrolment to 60 years by amendment, and issuing circulars and standing orders to re-engage Ex-Home Guards for emergent requirements. These developments further indicate that rehabilitation is being pursued through amendments and administrative measures, not through any pre-existing enforceable right to reservation in regular civil posts.

Conclusion

29. The Petitioners' hardship, including the passage of time since discharge and their present age constraints, is evident. However, relief in writ jurisdiction turns on enforceable right and legal duty, not on the desirability of a welfare measure. On settled principles, this Court cannot issue mandamus directing creation of a 50% reservation or absorption regime in Group 'C' and 'D' posts, nor can it compel Delhi Police to accept and implement a particular reservation proposal.

30. The petitions are, accordingly, dismissed. It is clarified that nothing stated here inhibits the competent authorities from continuing to examine, as a matter of policy, whether any further rehabilitation measures are feasible, consistent with the statutory framework and the applicable recruitment rules.

31. Disposed of along with pending applications.

SANJEEV NARULA, J

FEBRUARY 12, 2026/ab