

Before M. R. Agnihotri, J.

SATINDER PAL SINGH,—Petitioner

versus

UNION OF INDIA,—Respondent.

Civil Writ Petition No. 6730 of 1986.

August 26, 1988.

Constitution of India, 1950—Article 226—Candidate qualifying Combined Defence Services Examination declared medically unfit by Special Medical Board—Medical Board in appeal endorsing view—Review petition to Review Medical Board allowed and person declared medically fit to undergo Training Course—However, candidate becoming over-age under the Rules during the period spent in appeal and review—Though medically fit authorities declaring candidate ineligible on ground of over-age—Training Course in the meantime completed—Candidate—Whether should be admitted to the next Training Course—Executive authorities—Whether in the circumstances can be compelled to relax rules as to age.

Held, that the candidate is entitled to be deputed to undergo the Training Course for which he has already been declared fit. If the authorities could not take necessary decision in time due to their pre-occupations in the exigencies of administration and in the meantime the 43 S.S.C. (N.T.) Course had already commenced or was almost over, the candidate should not suffer on that account. In a welfare State, which is governed by the rule of law, the technicality of maintainability or advisability of a writ petition must be held subservient to the anxiety of the Courts to dispense justice, in order to create a sense of confidence in the subjects, that justice demanded by them would not be defeated only because the authorities have caused delay in dispensing the same. In order to achieve this objective, even if the Executive Authorities are compelled to relax the technicalities of the procedural rules, the same should invariably be done. Once the highest Medical Board had declared the candidate medically fit to undergo the Training Course, all other procedural formalities and technicalities of the rules and regulations should have given way to a combined endeavour to ensure that the decision was implemented with promptitude. (Para 3).

Writ Petition under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to :—

- (i) *issue a writ in the nature of Certiorari for quashing annexure P-3 to the petition.*
- (ii) *Issue a writ in the nature of Mandamus for directing the respondent to send the petitioner to the 44th Training Course.*

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- (iii) Issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit in the circumstances of the case.
- (iv) Any other relief to which the petitioner is found entitled to in the facts and circumstances of the case may kindly be granted.
- (v) Dispense with the service of advance notice and filing of certified copies of annexures P-1 to P-3 may kindly be exempted;

It is further prayed that during the pendency of the writ petition the petitioner be allowed to join the training course at his own risk and responsibility.

Pawan Bansal, Advocate, for the Petitioner.

R. S. Chahar, Advocate, for the respondent.

JUDGMENT

M. R. Agnihotri, J.

(1) Petitioner Satinder Pal Singh qualified the Combined Defence Services Examination conducted by the Union Public Service Commission in May, 1985, and was accordingly recommended for training for 43 S.S.C. (N.T.) Course at O.T.S. Madras. However, when the petitioner was medically examined by the Special Medical Board at Bangalore, he was declared medically unfit on 10th January, 1986, due to some minor ailment of ear. The petitioner preferred an appeal against the finding of the Special Medical Board, but on 20th March, 1986, the Medical Board at Army Hospital, Delhi Cantt., also agreed with the finding of the Special Medical Board at Bangalore. Thereafter, the petitioner preferred a review petition for convening the Review Medical Board, and the Review Medical Board, after examining the petitioner on 17th November, 1986, declared him medically fit. Since, by that time the duration of the 43 S.S.C. (N.T.) Course was almost over, the medical authorities decided to permit the petitioner to undergo the 44 S.S.C. (N.T.) Course, which was going to commence in the near future. But soon thereafter, on 26th November, 1986, the respondent conveyed to the petitioner,—*vide* impugned communication (Annexure P-3), that as his date of birth was 18th June, 1961, he was not eligible for the Course—obviously, the idea being that he had completed 25 years' of age in June, 1986, and would be over-age for the said 44th Course. Aggrieved by this action, the petitioner has approached this Court under Articles 226 and 227 of the Constitution of India, for issuing a writ of *mandamus* directing the respondent to admit him to the S.S.C. (N.T.) Course at O.T.S. Madras.

(2) Mr. R. S. Chahar, learned counsel appearing on behalf of the Union of India, has vehemently opposed the maintainability of the writ petition as well as the advisability of seeking the relief from this Court on merits of the case. According to the learned counsel, no such writ petition is maintainable by which the respondent can be directed to admit the petitioner to the Course and secondly if the petitioner had completed twenty-five years' of age and has become over-age, the respondent was not at fault for not deputing the petitioner for the necessary Course.

(3) Having heard the learned counsel for the parties, I am of the considered view that the petitioner is certainly entitled to be deputed to undergo the Training Course for which he has already been declared fit by the respondent. If the authorities could not take necessary decision in time due to their pre-occupations in the exigencies of administration and in the meantime the 43 S.S.C. (N.T.) Course had already commenced or was almost over, the petitioner should not suffer on that account. In a welfare State, which is governed by the rule of law, the technicality of maintainability or advisability of a writ petition must be held subservient to the anxiety of the Courts to dispense justice, in order to create a sense of confidence in the subjects that justice demanded by them would not be defeated only because the authorities have caused delay in dispensing the same. In order to achieve this objective, even if the Executive Authorities are compelled to relax the technicalities of the procedural rules, the same should invariably be done. It is the primary duty of the Executive authorities to create confidence in the people, not only with regard to the correctness of their decisions but also regarding the justness and fairness of their actions, especially in the implementation of their own decisions. Once the highest Medical Board had declared the petitioner medically fit to undergo the Training Course, all other procedural formalities and technicalities of the rules and regulations should have given way to a combined endeavour to ensure that the decision was implemented with promptitude.

(4) Under the circumstances, the ends of justice would be adequately met if the petitioner is now allowed to join the 44 S.S.C. (N.T.) Course, which has recently started or the 45th Course which is going to commence very shortly. The writ petition is accordingly allowed with no order as to costs.

R.N.R.