

**COURT NO. 1, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**  
**(Through Video-Conferencing)**

1.

**OA 1037/2021 with MA 1996/2021**

**In the matter of :**

**Capt Ravindra Singh**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : Shri Rajiv Manglik, Advocate**

**For Respondents : Dr. Vijendra Singh Mahndiyan, Advocate**


**CORAM :**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE LT GEN P.M. HARIZ, MEMBER (A)**

**O R D E R**  
**12.11.2021**

Vide separate detailed order passed today, OA is dismissed.

Learned counsel for the applicant makes an oral prayer for grant of leave to appeal for impugning the aforesaid order before the Hon'ble Supreme Court. However, there being no point of law, much less any point of law of general public importance involved in the order, which warrants grant of leave to appeal, the oral prayer is declined.

  
**[JUSTICE RAJENDRA MENON]**  
**CHAIRPERSON**

  
**[LT GEN P.M. HARIZ]**  
**MEMBER (A)**

/ng/

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**O R D E R**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'the AFT Act'), applicant, a Short Service Commissioned (SSC) officer in the Army Service Core (ASC) is aggrieved by the inaction which existed in the time of filing of this application and the subsequent act of the respondents in not permitting him to seek civil employment and refusing to grant 'No Objection Certificate' (NOC) to him, after he had cleared the CAPF Examination 2021, in which he had appeared in pursuance to the interim direction issued by this Tribunal on 30.07.2021. In this OA filed on 02.06.2021, the applicant prays for :-

- (i) To direct the respondents to grant the permission to the applicant to appear for CAPF examination**

**2021 and any subsequent test/interview in that respect; and**

- (ii) To direct the respondents that the letter dated 20 Jul 2006 cannot supersede the AO 27/87, and the applicant is permitted to apply for civil job after completing 4.5 years of service; and**
- (iii) To direct the respondents to relieve the applicant with Ex-serviceman status post selection providing terminal benefits (gratuity, leave encashment etc.) in case of his selection under CAPF 2021; and**
- (iv) To apply for civil jobs till not given Permanent Commission.**
- (v) To award exemplary costs in favour of the applicant.**
- (vi) To pass such other and further orders which their lordships may deem fit and proper in the existing facts and circumstances of the case.”**

On 30.07.2021, interim relief was granted to the applicant by permitting him to appear in the examination (CAPF 2021), scheduled to be held by the UPSC on 08.08.2021. Now the question which arises for consideration in this application is with regard to grant of final relief to the applicant in the matter of granting him NOC and permitting him to seek civil employment based on the result of the competitive examination conducted for the Central Armed Police Forces (CAPF) Examination 2021.

2. Facts in nutshell which are relevant for deciding the present application indicate that the applicant joined the



service on 14.03.2015 as an SSC Officer and after completing the requisite training, as per the requirement of the contract of service i.e. 49 weeks as per the Policy Annexure A-3 dated 20.07.2006, the applicant was allotted to the Army Service Corps (ASC).

3. According to the applicant, as per the Policy applicable in the Army, the scheme for SSC officers till 2005 in accordance with SAI 3/1998 was an initial service of 5 years with extension for a further period of 5 years. This was changed vide Policy dated 20.07.2006 (Annexure A-3) to initial period of contract/service of 10 years with an extension of 4 years. According to the averments made by the applicant in Para 4.2 of the petition, the applicant was inducted as an SSC officer as per this Policy i.e. Annexure A-3 dated 20.07.2006. The applicant further submits that as per the terms and conditions stipulated in the Policy of 2006, an SSC officer was permitted to leave the service at the 5<sup>th</sup> year of service and was also allowed to be released in the extended tenure of service for civil employment. It is the applicant's case that the age prescribed for joining the Army as SSC officer is 19 - 27 years. The applicant is said to have joined the Army at the age of 23 years and after completing 10 years of initial period of engagement, he would be released at the age of 33 years. According to the applicant, if he is required to complete his tenure of 10 years,

he may be overage for the purpose of seeking civil employment. The applicant also submits that only 250 vacancies are available for grant of Permanent Commission to SSC officers and the chances of an SSC officer getting Permanent Commission are very less. Applicant's case is that after 10 years of service even if he gets an extension of 4 years as an SSC officer, he would complete 37 years of age, chances of his getting Permanent Commission would be minimum and by the time he completes his service, he would be overage for the purpose of seeking civil employment through Union Public Service Commission (UPSC), as an Ex-Serviceman is only entitled to seek relaxation of 5 years, which would not help the applicant.

4. Be that as it may, when the applicant invoked the jurisdiction of this Tribunal, it was his grievance that an advertisement was issued by the UPSC vide Annexure A-4 dated 15.04.2021 notifying vacancies for the posts of 'Assistant Commandants' in the Central Armed Police Forces (CAPF), the said advertisement stipulated that selection would be through a competitive examination. Various other conditions with regard to the minimum age, age-relaxation etc. were indicated in the advertisement. The applicant, based on the relaxation available as per the advertisement, is said to have been eligible for the CAPF - 2021 examination. Accordingly, the applicant applied

for grant of NOC vide his application dated 20.04.2021 along with documents, filed collectively as Annexure A-5 to the petition. The application was forwarded by Respondent No. 3 vide Annexure A-1 dated 01.05.2021. However, the applicant was apprehensive and looking to the attitude of the respondents, when he enquired about the same, it was communicated to him orally without any written communication that he may not be eligible for getting released at this stage. According to the applicant, as per the Policy of 20.07.2006, an SSC officer can apply for a civil job during the extended tenure and he can also leave the service after completing 5 years. Placing reliance on the Army Order 27/1987 available on record as Annexure A-2 at Page 14 of the Paper-Book, it is the case of the applicant that as per this Army Order, an SSC officer can apply for civil employment during the last 6 months of his initial contractual service i.e. after completing 4 years and 6 months of service, accordingly. It is the case of the applicant that he is eligible for applying for civil employment. It is the specific averment of the applicant that this Army Order 27/1987 has not been amended till date and is still applicable. When the applicant filed this original application as the applicant was not issued NOC and was unable to participate in the examination, he approached this Tribunal for seeking NOC, by an interim order passed on



30.07.2021, permission was granted. Based on the permission, applicant appeared in the entrance examination. It is reported that now he has cleared the examination and, therefore, by 03.11.2021, he is required to submit his final NOC and as the respondents are not issuing the NOC, on a prayer made, the matter was heard urgently.

5. Placing reliance on Annexure A-2 i.e. Army Order 27/1987 and the stipulations contained in Clause 4 thereof, it is the case of the applicant that this order has not been amended, it is statutory in nature and as the applicant is entitled to seek release for appearing in a civil service examination after completing the last six months of initial contract of service i.e. 4.5 years of commissioned service as indicated in the order, the respondents cannot now deny the benefit of NOC to the applicant. It is the case of the applicant that even though in the Policy which was in vogue at the time of his commission, i.e. Annexure R-2 dated 20.07.2006, it does not speak of amendment to the Army Order and at the same time, the interpretation of this policy and denial of benefits to the applicant based on this policy by the respondents is unsustainable, for the simple reason that the Army Order is binding on the parties and the rights accruing to the applicant by virtue of the same cannot be taken away. It is the case of the applicant that change in the terms and conditions of service

of an SSC officer from initial contract period of 5 years to 10 years, by executive instructions, unilaterally, is not only contrary to the aforesaid Army Order but also to the guidelines for age relaxation for the UPSC examination enforced by various circulars of the Department of Personnel and Training (DoPT). It was tried to be demonstrated before us to say as to how after completing the tenure of Short Service Commission, the applicant would not be eligible to appear in any examination of the UPSC and even the age relaxation available would not help him. It is the case of the applicant that the Policy dated 20.07.2006 denying the opportunity to the applicant to appear and seek civil employment through CAPF examination, is violative of Article 21 of the Constitution, it takes away the right to life and livelihood of the applicant, amounts to forced labour (Bonded Labour). The policy is said to be violative of Article 14 of the Constitution also and placing reliance on Clause 4(c) of Army Order dated 27/1987, it is the specific case of the applicant that after completing 4.5 years of initial commissioned service, he is entitled to seek release. The applicant has also relied upon the recommendations of the Sixth Pay Commission, certain Preliminary Committees Report and the recommendations made therein permitting SSC officers to seek lateral transfer to CAPF and the effect of the recommendations being not accepted and implemented



resulting in not only violating the right of the applicant to seek release for joining civil job but also violating his constitutional rights.

6. It is stated that when SSC officers, prior to coming into force of the Policy of 2006, were permitted to seek civil jobs after completing 4.5 years of service, the effect of modifying this term by the Policy dated 20.07.2006 apart from being in contravention of Army Order 27/1987 is discriminatory and violative of Articles 14 and 16 of the Constitution, inasmuch as it takes away the right which has accrued to the applicant. Based on the aforesaid contentions, relief is sought for.

7. The respondents have filed a detailed reply by way of a counter affidavit and additional affidavit and it is their contention that the applicant is a Short Service Commissioned Officer of SSC [(NT)-99 course], commissioned on 14.03.2015 as per the terms and conditions stipulated in Annexure A-3 dated 20.07.2006. As per the terms and conditions of service and the contract of employment applicable to the applicant, it was obligatory on his part to complete 10 years of initial service with a further option of extending it by 4 years. However, the only option available to the applicant in Para 1(c) of this Policy was to seek release from service at the 5<sup>th</sup> year of service. Relying upon Para 1(c) of the Policy, it is the case of the

respondents that the applicant, on his own, did not opt to proceed on release at the 5<sup>th</sup> years for service for which he was eligible under Para 1(c) of the aforesaid Policy. Now the applicant has completed 6 years and 3 months of service, therefore, he will be considered for grant of release in case he is not selected for grant of Permanent Commission or extension of 4 years after completing of his initial contract period. As far as the stipulation contained in Army Order 27/1987 is concerned, it is the case of the respondents that this was issued in the year 1987, when the initial period of contract was 5 years and the stipulation in Army Order 27/1987 to the effect that an employee was entitled to seek release for civil appointment 6 months before the initial contract of service was completed and at that time, as the initial contract was for 5 years, the period of 4.5 years was stipulated in Clause 4(c) of the aforesaid Army Order, which now after coming into force of the Policy dated 20.07.2006, would mean 6 months prior to completing the initial period of contract which is 10 years. It is stated that this Army Order is of vintage age. As the applicant took appointment as an SCC officers based on the Policy of 2006, he is bound by the terms and conditions of his contract as stipulated in this Policy and, therefore, he cannot seek release contrary to the obligations contained in the contract entered into by him.

8. It is the case of the respondents that the reliance placed on Army Order of 1987 is not in accordance to the interpretation made by the applicant, it has to be read in accordance with the change in the terms of the contract and, therefore, no relief can be granted to the applicant. It is also the case of the respondents that the applicant, having accepted the terms and conditions of the contract of appointment as an SSC officer, he is bound by the terms of the contract entered into by him, no vested right is available to him to seek relief contrary to the policy of 2006 and interpret the amendment and change of the Policy to suit his convenience. It is stated that the applicant cannot challenge the policy on the basis of which he has been appointed.

9. The applicant has filed the rejoinder and has, in fact, refuted each and every contention of the respondents and has tried to highlight how he was misled in the matter by one of his superior officers; how his right to seek NOC and civil employment is being taken away; the difficulties which he will face in his career once he is released at an age, when he will become overage for seeking civil appointment, the implications of Sixth and Seventh CPC recommendations in the matter of lateral entry of SSC officers to CAPF and other civil services; the benefits accruing and the effect of Army Order 27/1987 which,



according to the applicant, is still applicable and as it has not been amended till date, it would be binding on the respondents. It is the case of the applicant that in the facts and circumstances, when the right available to the applicant to seek civil employment at a permissible age is being arbitrarily taken away by the respondents violating the constitutional rights available to him under Articles 14, 16, 21 and 23 of the Constitution, the action of the respondents should be quashed and relief granted to the applicant.

10. Respondents have also filed an additional affidavit and, apart from reiterating the contentions as are advanced hereinabove, in Paras 4 and 5 of the additional affidavit, following averments have been made to contend that the applicant is not entitled to relief claimed for. Paras 4 and 5 read as under :

**"4. It is submitted that Indian Army has been facing shortage of officers in lower and middle level ranks for many years. Such shortage in lower rank of officers impacts the operational preparedness of the Army. Presently, the Army is facing a shortage of about 9359 officers, resulting in some units in field being manned by 60% of the authorised strength of officers. Measures to reduce these deficiencies are underway in a mid and long term perspective.**

**5. To overcome the acute shortage of officers in lower and middle level ranks in**

*the regular Army, a special entry scheme in the form of Short Service Commission was introduced with specific terms and conditions of their employment. The said terms and conditions of service have been revised from time to time keeping the organisational interest and also to meet individual aspirations of the SSC officers."*

Respondents also highlighted certain exigencies of service in Paras 11 and 12 in the manner as reproduced hereinunder to canvass their contention that an SSC officer like the applicant cannot seek release as a matter of right :

*"11. It is submitted that in the prevailing conditions of proxy war, with an active Line of Control (LC) and the issues of the Line of Actual Control (LAC) and CI/CT environment, the Units are constantly under pressure due to deficiency in the posted strength of officers.*

*12. It is submitted that permitting the SSC officers to join civil employment prior to completion of their contractual period of service is not only violation of the agreement entered by the officer while joining the Army as SSC Officer, but also it will adversely affect the morale of other serving SSC officers. It will also have severe implications on the national security interests. It is also submitted that allowing the applicant to apply and join civil employment contrary to the existing policies would not only create a precedence, but also defeat the very purpose of inducting SSC officers in the Army."*

11. It is submitted by the respondents that the requirement of service, national security, national and public interests is of paramount consideration and the applicant, being bound by the terms of his contract of employment, cannot seek premature release contrary to the terms of his contract of employment once he has entered into the service knowing fully well the terms and conditions of the service and accepting the same before entering into the service.

12. We have heard the learned counsel for the parties and have also gone through the records.

13. We find from the record that the applicant was enrolled as an SSC officer on 14.03.2015 and according to the applicant's own showing i.e. the admission made in Para 4.2 of the OA, he was commissioned as per the Policy at Annexure A-3 dated 20.07.2006. This Policy of 2006 is available on record and it deals with the principles for extension of tenure and providing substantive promotions for SSC Officers (Men- Non Technical) in the Army. On a complete reading of the documents available on record, we find that initially, the contractual period of an SSC officer used to be 5 years, extendable by a further period of 5 years i.e. 5+5. This policy continued upto 2004. Vide Annexure R-1 dated 31.03.2004, this policy was modified and it became ***'initial period of 5***



**years + a further period of 5 years and further extension of 4 years'**. Subsequently, the revised policy Annexure R-2 dated 20.07.2006 came into force and as per this revised policy, the initial contract period was **'10 years extendable by a further period of 4 years i.e. 10+4'**. Accordingly, till 2004, the policy was 5+5 and between the years 2004-2006, it was 5+5+4 and after 2006 till now, it is 10+4 years.

14. As already indicated hereinabove, the applicant was appointed as per the Policy dated 20.07.2006 and the terms of service of an SSC Officer, duration of the course, special provision for release after completing 5 years' service and special provision applicable during the extended period of tenure are contained in Para 1(a), (b), (c) and (d) of the said policy, which read as under :

**"1. I am directed to convey the sanction of the President for modification of the provisions governing grant of Short Service Commission (Technical) promulgated vide AI 1/93, subject to the following conditions :-**

**(a) Tenure of Short Service Commission. Short Service Commission (SSC) (Technical) in the Regular Army will be granted for 14 years i.e. for an initial period of 10 years, extendable by 4 years.**

**(b) Duration of Training. 49 weeks.**

**(c) Special Provision for Release for SSC on Completion of 5<sup>th</sup> Year of Service. SSCOs other than those who have undergone or are**

*undergoing any specialised course, who are desirous of leaving the service after completion of five years service may, during the fifth year of service, apply to the Army HQs for release. Army HQ will consider the applications of such officers on merits and the decision of the Army HQ will be final and irrevocable. On approval such officers will be released from service on completion of 5<sup>th</sup> year of service. Those SSCOs who have undergone or are undergoing any specialised course will not be released before expiry of full tenure of 14 years unless the cost of training of such specialised course as prescribed is recovered from them. They will be required to execute a bond to this effect on nomination for such specialised course.*

*(d) Special Provisions During Extended Tenure. During extended tenure, they will be permitted to seek release from the Army on the following grounds:*

- (i) Taking up a civil job.*
- (ii) Pursuing higher education.*
- (iii) Starting own business/joining family business."*

15. However, the applicant, in spite of admitting the fact about applicability of this Policy to him, contends that this policy came into force in the year 2006 but much prior to that, the Army Order 27/1987 was already in vogue and as per this Army Order, the conditions on which an employee could seek permission to apply for civil appointment were stipulated. Army Order 27/1987 is Annexure A-2 at Page 14 of the Paper-Book and it lays down instructions with regard to officers who

want to apply for civil posts. Clause 4 (a), (b) (c), (d) and (e) of the said Army Order read as under :

**"4. Short Service Commissioned Officers may apply for any type of appointments under the following circumstances :—**

**(a) When rejected for the grant of Permanent Commission.**

**(b) During their initial contractual period, if they are ineligible for permanent commission, due to permanent low category. Release may however not be sanctioned before completion of initial contractual period, subject to exigencies of service.**

**(c) During the last six months of initial contractual service is after completion of four and a half years of commissioned service.**

**(d) Any time during the period of their extended service beyond the contractual period; those who are subjected for civil jobs would normally be sanctioned release from Army Service, at the discretion of Army Headquarters.**

**(e) Any time if he is ineligible for permanent commission on disciplinary grounds as specified from time to time in the selection criteria for grant of Permanent Commission. However, release may not be sanctioned till completion of initial contractual period, subject to exigencies of service."**

**[Emphasis supplied]**

16. It is the case of the applicant that this Army Order has never been amended, it is still in existence and it being



statutory in nature, the respondents are bound by the stipulations contained in sub-clause (b) and (c) of Clause 4 of the aforesaid Army Order. A perusal of Clause 4(b) and (c) of the aforesaid Army Order indicates that SSC officers can apply for any type of appointment during the initial contractual period, in case they are ineligible for Permanent Commission on account of being in a permanent low category, however, their release has to be sanctioned subject to exigencies of service. That apart, as per sub-clause (c), an officer can, during the last six months of initial contract of service, seek release and this clause further stipulates that this can be after completing 4 and half years of service of the commissioned officer. It is on this i.e. sub-clause (c) that reliance is placed by the applicant to say that he has completed 4.5 years of his contractual period, therefore, he is entitled for seeking release and has raised two-fold contentions before us, (1) that as the Army Order 27/1987 has not been amended, the stipulations contained in this Army Order cannot be diluted or superseded by an executive policy of 20.07.2006; and (2) that if the Policy of 20.07.2006 is implemented, it would amount to bonded-labour, violating the constitutional rights of the applicant affecting his right to livelihood and other rights available under Articles 14, 16 and 21 of the Constitution.

17. We have reproduced hereinabove the provisions of Policy dated 20.07.2006 (Annexure A-3) and Army Order 27/1987 (Annexure A-2) and we find from various policies applicable for appointment of SSC officers that initially upto 2004 i.e. upto 31.03.2004, an SSC officer was appointed for an initial contract period of 5 years with a stipulation for extension upto 5 years i.e. 5+5. Thereafter, the provisions contained in SAI 3/S/98 and AI 1/93 were amended and it was stipulated that initial contract period and extension of total tenure of SSC officers in the Army is from 10 years (i.e. 5+5) with 4 years extension, total 14 years, i.e. the system of 5+5+4 was introduced. Thereafter, vide Policy of 2006 at Annexure A-3 (also filed as Annexure R-2 to counter affidavit), the initial term of appointment/contract was fixed as 10 years, extendable by a further period of 4 years i.e. the Policy of 10+4 came into force. Even though the policies fixing the initial tenure of an appointment of an SSC officer and provision for extension are available on record, we find that the Army Order 27/1987, which was issued in the year 1987 is not an order stipulating the terms and conditions for engagement or appointment of an SSC officer. It is an Army Order specifically dealing with and laying down instructions to enable an army officer to apply for civil appointment. When this Army Order was issued in the year 1987, the contract of employment of an SSC officer i.e. the initial tenure and the extended tenure

of an SSC officer was 5+5 years i.e. initial period of appointment 5 years and with a provision for extension of 5 years and, therefore, in the backdrop of this contract of appointment and Policy for appointment of SSC officers, instructions were issued permitting SSC officer to apply for civil appointment vide Clause 4(c) of Army Order 27/1987, it was clearly stipulated that an SSC officer may apply for any type of appointment during the last six months of initial contract i.e. after completing 4.5 years of initial contract of service. Admittedly, this instruction was to the effect that just before completing 6 months of his initial contract of employment, which was 5 years in June, 1987, an SSC officer could seek release from service for seeking civil employment, 6 months prior to the initial contract of service being 4.5 years. The period that is 4.5 years finds specific mention as a matter of clarification in the second part of this clause. Admittedly, when the Policy was amended in 2004 and thereafter again in 2006, there is nothing to indicate or bring to our notice to show as to whether any consequential change has been made by amending Army Order 27/1987 but the respondents have stated that this stipulation, which is 'during the last 6 months of initial contract', is the qualifying words in Clause 4(c) which qualifies the period when an SSC officer can seek premature release for joining any other appointment and according to the respondents, the



option of last 6 months would be after completing 9 years and 6 months of service and not before that in the case of the applicant. This, in our considered view, is the correct interpretation that can be given to Clause 4(c). Clause 4(c), as it is read, would indicate that it contemplates a provision for permitting an SSC officer to seek premature release 6 months before his initial period of contract is over for seeking civil employment and when the initial period of contract, as amended from time to time, the rights available as per Army Order 27/1987 would also deemed to have been changed from time to time. The period 4.5 years indicated in Clause 4(c) of the Army Order 27/1987 has to be read along with the initial period of contract available in 1987 i.e. 5 years, which would change from time to time and in the year 2006, when the applicant was recruited, the period became 10 years. Accordingly, the contention of the respondents that the applicant had two options available with him, '(1) To seek release from service after completing 5 years as per Clause 1(c) of the Army Order 20.07.2006, or the (2) to seek permission for release 6 months before his initial period of contract i.e. 10 years in the case of the applicant as per Army Order 27/1987. In our considered view, this is the only manner in which the provisions applicable for seeking premature release by an SSC officer to seek civil employment can be availed of.

18. The applicant, when he applied for grant of Short Service Commission, is deemed to be aware of the policy under which he is being appointed i.e. Annexure A-3 or Annexure R-2 dated 20.07.2006, he entered into a contract of employment knowing fully well its terms and conditions. Even in the averments made in the application, as already indicated in Para 4.2 of the OA, the applicant admits that he was commissioned as per the Policy dated 20.07.2006. That being so, the respondents are right in contending that the applicant is bound by the terms and conditions of the contract as stipulated in the Policy dated 20.07.2006 and merely by reading the stipulations contained in the Army Order 27/1987 to his advantage without reading it in the context for which it has been issued, we cannot grant relief to the applicant. The import of Army Order 27/1987 is very clear. For seeking civil employment, an SSC officer can seek premature release 6 months before his initial term of contract. If we ignore this aspect of the Clause and only read that is '4 and a half year of commissioned service' in isolation, we will be doing damage not only to the purpose for which an SSC officer is recruited, so also to the aims and objects for which Army Order 27/1987 has been issued. The Army Order has to be interpreted by us keeping in view the purpose for which it was implemented and its interpretation has to be in consonance with the change in the policy governing the terms and

conditions of the appointment of an SSC officer and the intention behind the Army Order, stipulating the period when an SSC officer can seek premature release from service in reference to his initial contract period. That being so, we have no hesitation in accepting the contention of the respondents that the applicant cannot seek premature retirement/release at this stage.

19. That apart, we are of the considered view that once the applicant, knowing fully well the terms and conditions of his appointment as an SSC officer, accepted the appointment and started working and drew advantage of the said terms and conditions of appointment, cannot now back-out from the contract and interpret the contract in a manner which is convenient to him. We find that even in the impugned communication made to him on 24.04.2021 vide Annexure R-4 in Para 2, the following reasons were intimated to the applicant:

***"2. While processing the case of SS-47941Y Capt Ravindra Singh, ASC applying for NOC for CAPF (AC) Exam-2021, it is observed that the officer have an initial contractual period of 10 years upto 13 Mar 2025 vide GoI, MoD letter No. B/32313/PC/AG/PS-2(a)/D(AG) dated 20 July 2006. As per Para 4(c) of AO 27/87 "SSCOs may apply for civil appointment in the last six months of their initial contractual period". Accordingly, the offr is ineligible***



***to apply for the Exam under present circumstances.”***

***[Emphasis supplied]***

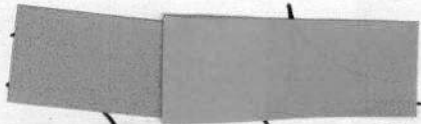
The interpretation of Clause 4(c) of the Army Order 27/1987 in the aforesaid communication, in our considered view, is the correct interpretation, in consonance with the aims and objects for which the Army Order was issued. Once the respondents are taking action in accordance to the requirement of the terms and conditions of the contract which is binding on both the applicant and the respondents, the contention of the applicant that the action of the respondents amounts to constitutional violation of his rights cannot be accepted.


20. As far as the contentions of the applicant based on his becoming overage and the right to seek civil employment being taken away etc. are concerned, these are all matters of policy and once the applicant is bound by the policy i.e. Policy dated 20.07.2006, we cannot issue any direction contrary to the policy. That apart, an SSC officer is appointed to the force in question based on certain considerations commensurate with the requirement of the service and once the applicant knowing fully well accepted the terms of appointment, he cannot wriggle out of the contract of employment to the disadvantage of the respondents.

21. Available on record are various administrative exigencies attached to the service of the applicant and the respondents have also indicated as to why the applicant cannot be released now at this stage. We have reproduced the averments made by the respondents in various paras of the additional affidavit including exigencies of service, interest of national security and public interest as are detailed in Paras 4, 5, 11 and 12 of the additional affidavit which prevent us from issuing any direction to the applicant. The applicant being an officer recruited to the armed forces to serve the nation is bound by the terms and conditions of his contract of appointment and anything done or direction issued in violation to the same would be contrary to law and cannot be permitted. The contract entered into by the applicant with the respondents at the time of seeking the commission is a binding contract and has to be strictly complied with. In violation to this contract, no direction can be issued. The applicant is not only bound by the contract but can seek release from the service strictly in terms of the contract which was in vogue at the time of his appointment. The respondents in the case are only insisting upon compliance with the requirement of the terms and conditions of appointment in the contract and, therefore, ignoring the same and giving it the go-by, we cannot issue any direction.

22. Accordingly, finding no case made out for interference into the matter, we dismiss the Original Application. However, there is no order as to costs.

Pronounced in open Court on this 12<sup>th</sup> day of November, 2021.

  
[ JUSTICE RAJENDRA MENON ]  
CHAIRPERSON

  
[ LT GEN P.M. HARIZ ]  
MEMBER (A)

/ng/