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

Decided on 28.07.2025

\+ W.P.(C) 10662/2025 & CM APPL. 44111/2025

VIKASH KUMAR .....Petitioner

Through: Mr. Asish Nischal, Mr. Arun Nischal, and Mr. Shivam Kumar Singh, Advocates.

versus

RESERVE BANK OF INDIA THROUGH ITS GENERAL MANAGER & ANR. .....Respondents

Through: Mr. Ramesh Babu, Ms. Nisha Sharma, Ms. Tanya Chowdhary, Advocates with Mr. S.C. Mahanta, DLA RBI, and Ms. Suman Jha, AGM RBI.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. By way of this petition under Article 226 of the Constitution, the petitioner assails the eligibility conditions for the post of Assistant Manager (Protocol and Security), Grade-A, as provided in the respondent- Reserve Bank of India's recruitment advertisement issued in July 2025.

2. The petitioner is a former Assistant Commandant in the Border Security Force ["BSF"], having served for approximately five years and five months in the BSF. His grievance is that the impugned advertisement restricts the eligibility for the post of Assistant Manager (Protocol and Security) to officers with a minimum of ten years' commissioned service

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in the regular Army/Navy/Air Force, holding a valid Ex-Servicemen identity card.

3. Mr. Asish Nischal, learned counsel for the petitioner, submits that, in several prior recruitments for the same post between the years 2013 and 2020, candidates who had served in the Central Armed Police Forces ["CAPF"] were also permitted to participate, and the minimum level of service was stipulated as five years instead of ten years. The position was changed only in an advertisement issued in the year 2021, when former CAPF personnel were excluded from consideration. However, the petitioner was allowed to participate, pursuant to an interim order of this Court dated 13.04.2022 in W.P.(C) 5729/2022. The said writ petition was later withdrawn, in view of the fact that the petitioner did not qualify on merit, despite participation in the selection process.

4. Mr. Nischal submits that the classification between Officers of the Armed Forces [Army/Navy/Air Force] and CAPF is not based upon any intelligible criteria, and bears no nexus with the objective of the recruitment. He relies upon the judgments of the Supreme Court in *D.S. Nakara and Ors. v. Union of India*[1] and *Express Publications (Madurai) Ltd. & Anr. v. Union of India & Anr*[2].

5. Pursuant to an order dated 24.07.2025, Mr. Ramesh Babu, learned counsel for the respondents, has filed a counter affidavit, a copy thereof was served upon learned counsel for the petitioner. Although the affidavit is not on record, a copy has been handed up in Court and is taken on record.

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[1] (1983) 1 SCC 305.
[2] (2004) 11 SCC 526.

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6. Mr. Babu submits that the impugned decision is consistent with Rule 2(c) of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979 ["1979 Rules"] (as amended in the year 2020), which defines an "*ex-serviceman*" as follows:

> *"2. Definitions*
>
> *(c) **An ex-serviceman means a person-***
>
> *(i) **who has served in any rank whether as a combatant or non-combatant in the Regular Army, Navy and Air Force of the Indian Union** and*
>
> *(a) who either has been retired or relieved or discharged from such service whether at his own request or being relieved by the employer after earning his or her pension: or*
>
> *(b) who has been relieved from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension: or*
>
> *(c) who has been released from such service as a result of reduction in establishment: or*
>
> *(ii) who has been released from such service after completing the specific period of engagement, otherwise than at his own request, or by way of dismissal or discharge on account of misconduct or inefficiency and has been given a gratuity; and included personnel of the Territorial Army, namely, pension holders for continuous embodied service or broken spells of qualifying service;*
>
> *Provided that Short Service Commissioner officers released from service after completing initial terms of engagement otherwise than by way of dismissal or discharge on account of misconduct or inefficiency and have been given gratuity shall be eligible to the status of Ex-servicemen.*
>
> *or*
>
> *(iii) personnel of the Army Postal Service who are part of Regular Army and retired from the Army Postal Service without reversion to their parent service with pension, or are released from the Army Postal Service on medical grounds attributable to or aggravated by military service or circumstance beyond their control and awarded medical or other disability pension:*
>
> *or*
>
> *(iv) personnel, who were on deputation in Army Postal Service for*

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more than six months prior to the 14th April 1987;

or

(v) Gallantry award winners of the Armed Forces including personnel of Territorial Army;

(vi) ex-recruits boarded out or relieved on medical ground and granted medical disability pension."[3]

7. Paragraphs 4 and 5 of the affidavit filed on behalf of respondents further reads as follows:

> *"4. It is submitted that the Respondents have been recruiting only "ex-servicemen" for the posts of Assistant Manager (Protocol and Security) in its organization. It is submitted that as per definition of 'ex-servicemen' under rule 2(c) of Ex-servicemen (re-employment in Central Civil Services and Posts) Rules 1979 [as amended in the year 2012 and 2020] the following persons are deemed to be an ex-servicemen:-*
>
> *xxx xxx xxx*
>
> ***Therefore, the Para-Military forces or Central Armed Police Forces are not included within the definition of the ex-servicemen**. A true copy of the notification dated 04.10.2012 issued by the Ministry of Personnel, Public Grievances and Pensions is annexed herewith as Annexure R-1.*
>
> *5. However, it is humbly submitted that **in order to fill the backlog vacancies towards reserved category, the eligibility criteria for the post of Assistant Manager (Protocol and Security) was modified in the recruitment conducted during the period 2013-2021** and the candidates with **rank equivalent to Assistant Commandant with minimum five years' service in Para-military forces were included**. It is submitted that this was a specific measure aimed at clearing the backlog vacancies in reserved categories.* [4]

8. The contentions of the parties have to be evaluated on the basis of principles which govern challenges to eligibility criteria in recruitment advertisements. It has been held by the Supreme Court that such challenges can be entertained by the Court only in limited circumstances of arbitrariness or unreasonableness within the meaning of Article 14 of

[3] Emphasis supplied.

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the Constitution. Reference, in this connection, may be made to the following judgments:

a) In *Maharashtra Public Service Commission v. Sandeep Shriram Warade & Ors.*[5], the Supreme Court reversed the view of the High Court, which had directed inclusion of contested qualifications for appointment to posts of Assistant Commissioner (Drugs) and Drug Inspector, holding as follows:

> *"9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference**. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement.** Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same."*[6]

b) Similarly, in *State of Uttarakhand v. Sudhir Budakoti*[7], the Supreme Court has considered the authorities on the subject, and held thus:

> *"14. **A mere differential treatment on its own cannot be termed as an "anathema to Article 14 of the Constitution".** When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist on*

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[4] Emphasis supplied.
[5] (2019) 6 SCC 362.
[6] Emphasis supplied.
[7] (2022) 13 SCC 256.

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absolute equality by taking a rigid and pedantic view as against a pragmatic one.

15. ***Such a discrimination would not be termed as arbitrary as the object of the classification itself is meant for providing benefits to an identified group of persons who form a class of their own.*** *When the differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied. Social, revenue and economic considerations are certainly permissible parameters in classifying a particular group. Thus, a valid classification is nothing but a valid discrimination. That being the position, there can never be an injury to the concept of equality enshrined under the Constitution, not being an inflexible doctrine.*

16. A larger latitude in dealing with a challenge to the classification is mandated on the part of the Court when introduced either by the Legislature or the Executive as the case may be. There is no way, courts could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials.

17. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. When two identified groups are not equal, certainly they cannot be treated as a homogeneous group. ***A reasonable classification thus certainly would not injure the equality enshrined under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for on the Court being convinced that the classification causes inequality among similarly placed persons. The role of the court being restrictive, generally, the task is best left to the authorities concerned.*** *When a classification is made on the recommendation made by a body of experts constituted for the purpose, Courts will have to be more wary of entering into the said arena as its interference would amount to substituting its views, a process which is best avoided.*

18. ***As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other Wings which is required to be respected except when a classification is bordering on arbitrariness, artificial difference and itself being discriminatory****. A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good faith and*

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> *intention are to be presumed unless the contrary exists. One has to keep in mind that the role of the Court is on the illegality involved as against the governance."*[8]

9. The judgments cited by Mr. Nischal also establish the same tests for classifications in legislative or executive actions.

10. Having regard to the materials which have been placed on record, particularly the notification dated 04.10.2012, which defines an ex-serviceman in terms limited to persons who have served in the regular Army/Navy/Air Force, I am not persuaded that the classification in the impugned advertisement is unreasonable or arbitrary.

11. It is stated in the affidavit of the respondent, that the post of Assistant Manager (Protocol and Security) for ex-servicemen has been reserved, as defined in the 1979 Rules. However, the eligibility conditions were expanded only during the period from 2013 to 2021, to include persons who have served in CAPF at the rank of Assistant Commandant with a minimum of five years of service, in order to clear the backlog in the reserved category. In the year 2021, the position was reviewed, and it was decided to revert to the original eligibility criteria. The petitioner was allowed to participate, in view of the above interim order dated 13.04.2022 in W.P.(C) 5729/2022.

12. These materials, in my view, are adequate to repel the allegation of arbitrariness. The 1979 Rules do not include CAPF personnel within the definition of "*ex-servicemen*", for whom reservation is mandated, and the percentage of vacancies has also been defined therein. The objectives of the 1979 Rules, would potentially be jeopardised, with an expansive inclusion of other categories into the reserved category. The

[8] Emphasis supplied.

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advertisement thus employs differentia mandated by the Rules, and bears rational nexus with the objective of compliance therewith. Particularly having regard to the deference accorded to an employer to determine the eligibility conditions, I am unable to hold that the classification is arbitrary or unreasonable within the scheme of Article 14 of the Constitution.

13. Further, the petitioner has also assailed the increase in the minimum period of service from the earlier period of five years, to ten years. In support of this change, the respondents' affidavit refers to an amendment to the 1979 Rules, effected in the year 2020, by which the initial tenure of Short Service Commissioned Officers in the Armed Forces was fixed at ten years. He submits that this has been reflected in the eligibility conditions stipulated by the respondents in the advertisement. The aforesaid challenge also, therefore, does not withstand scrutiny. In any event, as held in the judgments cited above, the employer remains the best judge of suitability of candidates for recruitment, and the interference of the writ Court is uncalled for, except in clear cases of violation of legal rights, or manifest unreasonableness. No such ground is made out.

14. For the aforesaid reasons, I do not find any ground to interfere with the eligibility conditions in the impugned advertisement, in exercise of jurisdiction under Article 226 of the Constitution.

15. The petition, alongwith pending application, is therefore dismissed.

PRATEEK JALAN, J

JULY 28, 2025/SS/*Jishnu/*

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