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

% ***Decided on: 29.07.2025***

+ W.P.(C) 11097/2025

MOHAN LAL BESARWADIYA & ORS.Petitioners

Through: Mr. Amit B. Mohanty, Advocate.

versus

RESERVE BANK OF INDIA & ORS.Respondents

Through: Mr. Ramesh Babu M.R., Ms. Nisha Sharma, and Ms. Tanya Choudhary, Advocates for R-1 and R-2.

Mr. Ravi Kant Srivastava, Senior Panel Counsel for UOI with Mr. Robert Laishram and Mr. Bhupender, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

CM APPL. 45654/2025*(Exemption)*

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11097/2025 & CM APPL. 45655/2025*(for direction)*

1. Issue notice. Mr. Ramesh Babu, learned counsel, accepts notice on behalf of respondent No. 1 – The Reserve Bank of India [“RBI”]. Mr. Ravi Kant Srivastava, learned Senior Panel Counsel, accepts notice on behalf of the Union of India.
2. There are four petitioners in this writ petition, who all are serving



at the level of Assistant Commandant/Deputy Commandant in various Central Armed Police Forces [“CAPF”], with more than ten years of service. They assail an advertisement issued by RBI in July 2025, by which eligibility conditions for the post of Assistant Manager (Protocol and Security) have been limited to ex-servicemen of the regular Army, Navy, and Air Force.

3. The very same issue came up for consideration in a writ petition filed by a similarly placed officer in the Border Security Force [“BSF”]. By a judgment dated 28.07.2025 in W.P.(C) 10662/2025 [*Vikash Kumar vs. Reserve Bank of India Through Its General Manager & Anr.*], this Court held as follows:

“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 noncombatant 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 Exservicemen.

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 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.”

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 “exservicemen” 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 exservicemen:-

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.

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 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.”

b) Similarly, in *State of Uttarakhand v. Sudhir Budakoti*, 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 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 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.

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 exserviceman 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 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.”

4. The aforesaid judgment covers the present case against the petitioner. However, Mr. Amit B. Mohanty, learned counsel for the petitioner, seeks to advance three further contentions.

5. Mr. Mohanty submits that, by an Office Memorandum dated 23.11.2012, the Ministry of Home Affairs has designated retired personnel of various forces as “Ex-CAPF personnel” and provided for State/Union Territory Governments to extend benefits to them in the



same manner as granted to ex-servicemen of defence forces. A copy of the said Office Memorandum has been handed up in Court and is taken on record. The said Office Memorandum reads as follows:

“Subject: Designating the retired Central Armed Police Force (CAPF i.e. CRPF, BSFCISF ITBP and SSB) personnel as “Ex-Central Armed Police Force personnel (Ex-CAPF personnel).”

There has a demand from various fora that the retired Central Armed Police Force (CAPF) personnel may be given the status of EX-CAPF personnel. Accordingly a proposal was sent to the Government for their consideration. Cabinet Committee on Security has approved the proposal of this Ministry to declare retired Central Armed Police Force personnel from Central Reserve Police Force (CRPF), Border Security Force (BSF), Central Industrial Security Force (CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) as “Ex-Central Armed Police Force personnel” (Ex-CAPF personnel).

2. Based on such designation, the State/UT Governments concerned may extend suitable benefits to them on the lines of the benefits extended by the State/UT Governments to the Ex-Servicemen of Defence Forces.”¹

6. I do not find any legal right flowing from the designation of “*Ex-CAPF personnel*”, as submitted by Mr. Mohanty. The Government of India has also not promulgated any legislative enactments or rules for the grant of such benefits to ex-CAPF personnel, unlike the Ex-servicemen (Re-employment in Central Civil Services and Posts) Rules 1979, which mandate reservation for ex-servicemen, as defined therein. No such right can therefore flow from the Office Memorandum, so as to vest the petitioners with a legally enforceable claim, or to render the classification employed by the respondent arbitrary or unreasonable.

7. Mr. Mohanty then draws my attention to Entry 2 of List I of the Seventh Schedule to the Constitution, which includes the following in the



Union List:-

“2. Naval, military and air forces; any other armed forces of the Union.

[2A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.]”

8. Again, I do not find this argument to be of much assistance to the petitioner. For the purposes of legislative competence, the Constitution has allocated the subjects of Naval, Military, Air Forces, and any other Armed Forces to the Union List. However, this does not imply that no differentiation can be made between the various forces for any purpose whatsoever.

9. Mr. Mohanty’s third submission is that the reservation for ex-servicemen is intended to be a horizontal reservation, and the eligibility criteria adopted by the respondent has the effect of reserving all posts of Assistant Manager (Protocol and Security) for ex-servicemen.

10. As far as this argument is concerned, it may be noted that the relief sought by the petitioners in this writ petition is in the following terms:

“(a) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to include personnel of the Central Armed Police Forces (CAPFs) as eligible candidates for the post of Assistant Manager (Protocol and Security) under Advertisement No. RBISB/DA/02/2025-26;

(b) Further direct the Respondents to grant age relaxation benefits for the said post in accordance with the norms of the Department of Personnel and Training (DoPT), as extended to similarly placed candidates;

(c) Direct the Respondents to allow the Petitioner to apply for the

¹ Emphasis supplied.



post of Assistant Manager (Protocol and Security) for the year 2025–26 under Advertisement No. RBISB/DA/02/2025-26;

(d) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

11. The relief is not for de-reservation of the post, but for inclusion of ex-CAPF personnel in the eligibility criteria. The argument that the eligibility condition militates against the horizontal nature of the reservation for ex-servicemen is thus, not borne out by the writ petition, and is inconsistent with the reliefs sought. It is therefore rejected.

12. The only remaining prayer of the petitioner is for grant of age relaxation benefits to ex-CAPF personnel. As I have upheld the eligibility conditions as they stand, ex-CAPF personnel do not fall within the eligibility condition, and the question of age relaxation, therefore, does not arise.

13. In view of the aforesaid, and following the judgment dated 28.07.2025 in W.P.(C) 10662/2025, I am of the view that the Court must defer to the eligibility criteria prescribed by the respondent and that no actionable arbitrariness or unreasonableness is demonstrated.

14. The petition, along with the pending applications, is therefore dismissed.

PRATEEK JALAN, J

JULY 29, 2025

UK/JM/