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**N. NAGARESH, J.**

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W.P.(C) No.28947 of 2022  
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*Dated this the 22<sup>nd</sup> day of December, 2023*

**J U D G M E N T**

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सत्यमेव जयते

The petitioners, who are aspirants for enlistment in Indian Army, seek to quash Ext.P10 and to direct the respondents to continue the earlier recruitment process commenced by Exts.P1 and P2 irrespective of Ext.P10. The petitioners are aggrieved by Ext.P10 Recruitment Rally Notification for appointment as Agniveer General Duty, Agniveer Technical, Agniveer Clerk / Store Keeper Technical and Agniveer Personnel.

2. The petitioners state that they have applied pursuant to notifications dated 21.10.2020 and 18.12.2020



for recruitment in Indian Army. They have cleared the recruitment rally held before the lockdown in 2020. The petitioners have cleared Medical Examination. Written Examination was, however, postponed from time to time. According to the petitioners, the Union Government had committed before the Parliament that they will finalise the recruitment already commenced.

3. To the surprise of the petitioners, the Government of India cancelled the recruitment process and framed a new Scheme called Agnipath Scheme for recruitment to Military Service. The Scheme modified only the age limit and maximum age limit to 21 years and for the present year, the upper age limit was relaxed to two years. The service conditions including pay and pension were altered substantially.

4. The petitioners state that having undergone the recruitment rally, they have legitimate expectation to be recruited to Indian Army. Ext.P10 notification for recruitment as Agniveers has undermined their legitimate expectation.



The petitioners contend that after holding recruitment to Military, the abandonment of the same is arbitrary, illegal and unconstitutional. The Government of India cannot, without appropriate legislation or rules framed under Article 309 of the Constitution of India, substitute permanent soldiers with temporary staff.

5. The petitioners argued that making the Army young by reducing the recruitment age is unscientific. The Government has miserably failed to assess the social impact that could possibly be caused by trained unemployed youth aged 21 to 25 years. Agniveers, who get enlisted in the forces will find it difficult to settle into a married life since they have only a temporary job for four years.

6. Short term training of Agniveers will only make them tough and not responsible. The ex-servicemen now in service are responsible soldiers because they have served ten or more years and secured comfortably shouldering family responsibilities. The Government of India has considered only fiscal advantages and has ignored the social



impact. Life of Agniveers in barracks is not addressed while taking the crucial decision. Ext.P10 is therefore liable to be set aside and the respondents are compellable to continue the earlier recruitment process commenced as per Exts.P1 and P2.

7. The Deputy Solicitor General of India entered appearance and resisted the writ petition. On behalf of the respondents, the Deputy Solicitor General urged that the Scheme of Agniveers was framed taking into account the peculiar border situation and incessant threats made by hostile neighbouring nations to infiltrate the borders of India. Geographical terrain of India inclusive of mountain ranges, swampy marshes, jungles, deserts, riverine and glaciated regions as well as isolated island territories forced the Government to establish a more youthful, agile and physically fit Armed Forces which is well equipped to deal with such terrains.

8. The Deputy Solicitor General of India pointed out that the average age of officers of the Armed Forces was 32



years as opposed to the global average of 26 years. The Agniveer Scheme is intended to have a force of young Jawans, Sailors and Airmen between the age of 18 to 25 years, supervised by experienced regular cadre personnel. While taking a decision in the matter, deliberations were held and studies were conducted. Military “intake and retention” models of the United States, United Kingdom, Canada and France were considered to analyse the efficiency and organisational benefits of short term military engagement. At any rate, Ext.P10 is the result of a policy decision taken by the Government of India and it is not liable to be interfered with by this Court in exercise of the powers conferred under Article 226 of the Constitution of India.

9. I have heard the learned counsel for the petitioners and the learned Deputy Solicitor General of India representing the respondents.

10. The Government of India notified Agniveer Scheme on 15.06.2022 to enable Indian youth to join Indian Armed Forces for a term of four years. The Agniveers so



recruited under the Scheme are to hold a distinct rank in the Indian Armed Forces. On completion of their engagement period, Agniveers will go through a selection process and 25% of them will be enrolled in regular cadre. The remaining Agniveers will exit into civil domain.

11. The respondents have stated that after completion of four years, Agniveers will be provided with skill certificates as per their trade in the Indian Army, which will enable them to apply for various jobs in the Government sector as well as in private sectors.

12. It is evident that the Agniveer Scheme has been prepared after studying the military “intake and retention” model of several countries. The impugned Scheme is framed by the Government of India after detailed deliberations.

13. The issue raised by the petitioners is one concerning the method of recruitment to the Indian Armed Forces. It is a sensitive issue. In matters concerning national security, policy decision should be left to the



Government. So long as the decision of the Government does not infringe fundamental rights of citizens, the Courts have no reason to interfere. In assessing the propriety of a decision of the Government, the Court cannot interfere even if a second view is possible. The Hon'ble Apex Court in the judgments in ***State of Orissa v. Gopinath Dash*** [(2005) 13 SCC 495], ***Centre for Public Interest Litigation v. Union of India*** [(2016) 6 SCC 408] and ***State of Maharashtra v. Bhagwan*** [(2022) 4 SCC 193] has reiterated that the courts should refrain from interfering with policy decisions, which might have a cascading effect.

14. The argument of the petitioners is that they have a legitimate expectations for recruitment to the Armed Forces through the regular stream. It is a settled proposition of service jurisprudence that participation in a recruitment rally or written examination will not confer any right on the candidates who took part in the recruitment process. Even those candidates who have found a place in the final select list, do not have any indefeasible rights for appointment.



Therefore, the contention of the petitioners that they have a legitimate expectation for appointment as Jawans through regular stream, is unacceptable.

15. While reducing the age limit from 21 years to 17½ years for recruitment as Agniveers, the Government has considered various aspects including the distinct and challenging geographical terrains in the borders of India and also the system of Army maintained in various world countries. The petitioners have not advanced any tangible reason warranting interference by this Court, in the Agnipath Scheme.

In the facts of the case, I am not inclined to grant any relief to the petitioners. The writ petition is therefore dismissed.

Sd/-

**N. NAGARESH, JUDGE**

aks/22.12.2023