

Delhi High Court

Janardhan Prasad vs Union Of India (Uoi) And Ors. on 26 August, 2002

Equivalent citations: 100 (2002) DLT 481, 2003 (1) SLJ 168 Delhi

Author: Khan

Bench: B Khan, J Kapoor

JUDGMENT Khan, J.

1. Petitioner retired from Army Service sometime in 1989. He was thereafter re-employed as Driver in (SPG) Special Protection Group by order dated 21.6.1991. His re-employment order stipulated that it would be initially for one year and then extendable up to three years on year to year basis. He served a full term of three years which was again extended by three more years. He was eventually relieved on 17.4.1997 after completing his six-year stint. He made representations against this which was rejected. He has now filed this petition for quashing this order and also the Cabinet Secretariat Order dated 16.12.1991 fixing six years term for ex-serviceman in SPG.

2. Petitioner's case is that once he was appointed in the Special Protection Group, he was entitled to continue under Section 11 of Special Protection Group Act till his superannuation. He also challenges Cabinet Secretariat order dated 16.12.1991 fixing the maximum 6 year term for ex-servicemen as arbitrary, unreasonable and discriminatory as it was not being applied uniformly. He alleges that though he was ousted, others of his class were retained.

3. Respondents' counter states that SPG was raised in 1985 as a wholly deputationist organisation drawing from Central police organisations and other departments of the Govt. Since adequate nominations from donor organisations were not forthcoming at one stage, it was permitted to recruit suitable ex-servicemen on re-employment basis initially for one year which was extendable up to three years. Subsequently tenure of re-employment was raised six years by Cabinet order dated 16.12.1991. It was in this background that petitioner was re-employed initially for one year and allowed to continue up to six years. It is denied that any person falling in this class was contained beyond six years except some deputationists who were governed by the terms of their deputation. The Cabinet Secretariat order is also justified in the context of the security syndrom of SPG.

4. Petitioner's case appears wholly misdirected on the face of it. He conveniently ignores that he was re-employed under a scheme for ex-servicemen and mistakenly believes that he was appointed under the SPG Group Act with a right to continue till he reached the age of superannuation. He also overlooks that he was governed by and bound by the terms of his appointment order which stipulated that his term was for one year and extendable up to three years and then maximum six years. If anything he was to sink and swim with the terms of his re-employment order and the question of his imaginary appointment under the Act did not arise. His reliance and claim based on Section 11 of the Act is thus grossly misconceived.

5. So is his plea of discrimination untenable. It is not his case that any similarly situated re-employed personnel were retained beyond six years. Nor has he laid down any foundation in this regard. He has only made a generalised statement which falls short of requirement to make out any

case of hostile discrimination. Respondents might have allowed some deputationists to continue, but they constituted a separate class altogether.

6. Petitioner's challenge to Cabinet order dated 16.12.1991 fixing a maximum term of six years for ex-serviceman is also frivolous. This order is based on the security sensitivity of SPG which dictate the limited tenure of the SPG personnel. Even the term of deputationists is also restricted. Therefore considering the nature of duty to be discharged by the SPG personnel the order could not be held to be arbitrary or unreasonable or violative of petitioner's right of employment.

7. This petition accordingly fails and is dismissed. But regard being had to the fact that petitioner had stayed in service till date on the strength of interim stay order of this court dated 13.6.1997 and had also worked for this period, the salary and other service benefits received by him for this period, shall be deemed regularised.