



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 10734 of 2026

Manoj Kumar Pandey And 14 Others

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home U.P. Lko
And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Krishan Kanhaya Pal, Pooja Pal
Counsel for Respondent(s)	: C.S.C.

Court No. - 6

HON'BLE PANKAJ BHATIA, J.

1. Heard the counsel for the petitioner and the learned Standing Counsel.
2. In terms of the nomination, the matter is being listed before me.
3. The petition, in question, has been filed by the petitioners mainly alleging that the petitioners, despite having qualified the written examination and document verification are now not being permitted to undergo Physical Endurance Test only on account of the restricted interpretation given by the respondents to Section 2(c)(iv) of the Uttar Pradesh Public Services (Reservation for Physically Handicapped, Dependents of Freedom Fighters and Ex-Servicemen) Act, 1993, which is as under:

2. परिभाषायें. इस अधिनियम में-

...

(ग) भूतपूर्व सैनिक' का तात्पर्य ऐसे व्यक्ति से है जितने भारतीय थलसेना, नौसेना या वायुसेना में किसी कोटि में योद्धक या अनायोद्धक के रूप में सेवा की हो और जो-

....

(चार) विशिष्ट निर्धारित अवधि पूर्ण करने के पश्चात् ऐसी सेवा से निर्मुक्त किया गया है, किन्तु अपनी स्वयं की प्रार्थना पर निर्मुक्त नहीं किया गया है, या दुराचरण या अदक्षता के कारण पदच्युत या सेवामुक्त नहीं किया गया है और जिसे ग्रेच्युटी प्रदान की गयी है, और इसमें टेरीटोरियल आर्मी के निम्नलिखित श्रेणी के कार्मिक भी हैं

(एक) निरंतर संगठित सेवा के लिए पेंशन पाने वाले,

(दो) सैन्य सेवा के कारण चिकित्सीय अपेक्षाओं में अयोग्य व्यक्ति और

(तीन) शौर्य पुरस्कार पाने वाले।

4. The submission of the counsel for the petitioners is that the petitioners are ex-servicemen, who have released from service from the defence services on their own request and giving a restricted meaning of Section 2(c)(iv), they are now not being permitted to appear in the Physical Endurance Test, which is underway. It is argued that a similar provision came up for interpretation by the Hon'ble Supreme Court in the case of **Sansar Chand Atri v. State of Punjab, (2002) 4 SCC 154**, where a similar provision contained in rule 2(c) of the 1982 Rules of the State of Punjab, has held as under:

9. It is relevant to note here that in the certificate issued by the Ministry of Defence the appellant has been described as an ex-serviceman. The provision for reservation in the Service Rules is meant for the benefit of ex-servicemen. The purpose is to provide them with suitable jobs in the civil services so that they may not face difficulty in adjusting themselves in civil society after leaving the defence service. In the context of the scheme of the f provision the provisions in the Rules should be interpreted in a purposive and reasonable manner so that the intent and purpose of the provision is served. From the provisions in the Rules it appears that a distinction has been made for persons who are released from the army on the ground of medical disqualification or on the ground of inefficiency or misconduct. Such distinction is reasonable keeping in view the purpose of reservation of posts g made under the Rules. All the ex-defence service personnel are to be treated as a class separate from other candidates for the purpose of offer of jobs and no differentiation or discrimination can be made amongst them unless such differences are real and substantial. Testing the provisions in this context we are of the view that a person in the army who has earned pension after putting in the requisite period of service before leaving the army whether at h his own request or on being released by the employer or on any ground should be treated as an ex-serviceman who has retired from the army. Such treatment is to be meted out to all such persons irrespective of whether the nomenclature used is "released" or "discharged" or "retired". If the contention raised on behalf of the Service Commission and the State Government that since the appellant has been discharged from the army at his own request, he cannot be treated as an ex-serviceman, is

accepted then it will create a class within a class without rational basis and, therefore, becomes arbitrary and discriminatory. It will also defeat the purpose for which the provision for reservation has been made.

10. The High Court, in our view, is not justified in placing reliance on sub-clause (iv) of the definition clause and excluding the writ petitioners from the eligible category on that basis. Sub-clause (iv) has no application in the instant case for the reason that it applies to such of those persons who are released from service after specific period of engagement and become entitled to get gratuity. If a person, who served in the armed forces, is released after being granted the benefit of pension, the case is taken out of the purview of sub-clause (iv). The exclusionary words "otherwise than at his own request" occurring in sub-clause (iv) cannot, therefore, be relied upon to deny the benefit to the appellants. Then the question arises, whether such person would fall under sub-clause (i)? True, according to the terminology used in the Service Rules governing the armed forces there is a distinction between retirement and release/discharge, as pointed out by the High Court. But, in the context of definition of ex-serviceman in Rule 2(c)(ii), the broader meaning has to be given to the word "retired" occurring in sub-clause (i). In principle and in the light of the considerations set out above, there is no rational basis for excluding those discharged or released from service after earning pension. It is only after considerable period of satisfactory service a member of the armed forces becomes entitled to pension. The mere fact that after such long period of service he voluntarily quit the service with the consent of the employer should not place him in a disadvantageous position for claiming the benefit of reservation for ex-serviceman. Therefore, the expression "retirement" should be given wider meaning in order to effectuate the objective behind the Rule.

5. In the light of the said, it is argued that on the same analogy, the present petitioners are founding their claims. It is also argued that in view of the urgency and the fact that the Physical Endurance Test is going on, at this stage, a request has been made that they be permitted to undergo the Physical Endurance Test.

6. Reliance is also placed upon an interim order passed by this Court at Allahabad in **Writ A No. 16700 of 2026, vide order dated 06.10. 2026.**

7. The counsel for the State, on the other hand, argues that in terms of the definition of Section 2(g)(iv), the petitioners are clearly not eligible for the benefits as claimed by them. It is argued that the petitioners, despite knowing well with their limitations as enumerated in Rule (2)(c)(iv) and the advertisement issued, ought to have challenged by approaching this court prior in point of time, and thus, considering the fact that the petitioners are approaching at the fag end of the selection process, they do not deserve any indulgence. It is also argued that after the documents of the petitioners were verified, they were not called for undergoing the Physical Endurance Test as they did not fulfil the qualification.

8. Although, on a plain reading reading of Rule 2(c)(iv), ex-facie, the petitioners were not eligible, however, considering the fact that the similar provision and similar restrictions contained in the Punjab Rules has been interpreted by the Supreme Court in the case of **Sansar Singh (supra)** contrary to what is pleaded by the State, the matter requires consideration.

9. As an interim measures, it is directed that the petitioners would be permitted to undergo the Physical Endurance Test, however, it is clarified that the petitioners would not be entitled to claim any special equities merely because they have undergone the Physical Endurance Test on the directions given by this Court.

10. The claim of the petitioners, vis-à-vis the requirements mentioned in the Rules, shall be adjudicated after the pleadings are exchanged.

11. The counsel for respondents prays for and is granted ten days time to file the counter affidavit. Three days' thereafter for filing the rejoinder affidavit.

12. List this case on 28.10.2026 before appropriate Bench.

13. The Standing Counsel is directed to inform the respondent authorities about this order for its compliance in accordance with law.

(Pankaj Bhatia,J.)

October 10, 2026

VNP/-