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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Judgment reserved on: 16.01.2026**Judgment delivered on: 24.02.2026*+ **W.P.(C) 4338/2025 & CM APPL. 20065/2025, 40174/2025****MASTER ATHRAVA TRIPATHI & ANR.Petitioners**Through: Mr. Gautam Narayan, Sr. Adv. with
Ms. Disha Joshi, Mr. Shashank Jain
and Ms. Asmita Singh, Advs.

versus

UNION OF INDIA & ORS.RespondentsThrough: Mr. Abhishek Yadav, SPC with Mr.
Kapil Dev Yadav and Mr. Atul
Kumar, Advs. for R-1 to R-3.
Mr. Praveen Kumar Singh, Mr. C.
Sanal Nambiar, Ms. Chetna Singh and
Mr. Neeraj Kumar Mishra, Advs. for
R-4.**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J.**

1. The present petition has been filed seeking following reliefs:

“(a) Call for the complete record leading to the issuance of the impugned letter dated 21.05.2018 by the Respondent No.1 and after perusal thereof issue an appropriate Writ including the Writ of Certiorari to read-down 'Priority-II' clause of the said impugned letter dated 21.05.2018 in so far as the same discriminates between "soldiers disabled in action" and "soldiers disabled in action and boarded out of service" with regard to giving the benefit of



reservation to their wards in the Priority-II in CW category in various Under-graduate/ Post-graduate courses;

(b) Direct the Respondents to treat Petitioner No.2 and his ward (Petitioner No. 1) as 'Priority-II' in the 'CW Category' for the purpose of admission to various courses and program of the various educational institutions including University of Delhi, as well as for the purpose of other academic and education concessions;

(c) Direct the Respondents to accord the benefit of 'Priority-II' in the 'CW category' to the Petitioner No.1 for admission to three years full time undergraduate B. Com. (Hons.) course at Shri Ram College of Commerce, University of Delhi.”

2. Essentially, the petitioners have laid challenge to the impugned Policy dated 21.05.2018, issued by the Government of India (MOD), Department of Ex-Servicemen Welfare/respondent no. 1, and implemented by the Kendriya Sainik Board/respondent no.2, whereby the category of 'Priority-II' under the children/widows quota [*hereinafter* referred as “CW quota”] has been restricted only to the “wards of soldiers disabled in action and boarded out from service,” thereby excluding wards of those soldiers who, though disabled in action, continued in service.

3. The petitioner no. 1 seeks that he should be accorded 'Priority-II' status for admission in the CW Category, particularly for admission to the B.Com (Hons.) course at Shri Ram College of Commerce (SRCC), University of Delhi, in the academic session 2025-2028.

4. It is stated that petitioner no. 2 was commissioned in the Indian Army on 08.06.1991 as a regular permanent commission officer. On 09.05.2001, he became permanently disabled after sustaining 40% composite disability during “Operation Rakshak/Parakaram” while deployed in Jammu &



Kashmir. Accordingly, petitioner no. 2, was declared as a “battle casualty” *vide* letter dated 31.05.2004 (Annexure P/10).

5. The Army Policy dated 12.05.1997 (Annexure P/7) provides that all battle casualties will be retained in service till completion of their terms of engagement in the rank held/to which promoted. Only if the individual is unwilling to serve or in exceptional cases due to medical reasons invalidment proceedings will be initiated. In light of the above policy, the petitioner no. 2 decided to continue in service, however, after some time he applied for pre-mature retirement [*hereinafter*, also referred to as “PMR”] due to bad physical condition & deteriorating health, which was granted to him w.e.f. 15.08.2011 (Annexure P/11). The policy dated 12.05.1997 reads thus:

AG/Org 2 (MP) (C)

Army Headquarters
DHQ PO New Delhi – 110010

B/16122/LMC/Org 2 (MP)(C)

12 May 97

Headquarters
Southern Command
Northern Command
Western Command
Eastern Command
Central Command
Army Trg Command

INVALIDMENT OF CASUALTIES

1. Reference our letter No B/10122/LMC/Org 2 (MP) (C) dated 10Apr 97.
2. Para 4 (j) as under be added to our letter under reference:-

Battle Casualties – All battle casualties will be retained in service till completion of their terms of engagement in the rank held/to which promoted. **Only if individual is willing to serve or in**



exceptional cases due to medical reasons will invalidment proceedings to be forwarded to AG Branch for approval as per procedure laid down in para 4 (a) to (e) above.

(K Sudhakar)
Brig
DDG Org

Personal Section
MS Branch
Org 2 (MP) (a)
PS 2
AG Coord
DGMS (Army)-5(A)

6. Prior thereto, *vide* letter dated 14.05.1992, the Government of India, Ministry of Defence had issued a policy recommending 'Priority-II' reservation in Medical/Dental colleges for wards of soldiers "disabled in action" and "boarded out" (Annexure P/2). Policy dated 14.05.1992 is reproduced herein below in extenso:

Tel: No. 6872362

Government of India
Ministry of Defence
Kendriya Sainik Board
West Block-IV, Wingh-7
R.K. Puram, New Delhi-66

No. 192/KSB/17/F-II/92-92

14 May 92

Service HQr's
Zonal Directors
RSBs/ZSBs

RESERVATION OF SEATS IN MEDICAL/DENTAL COLLEGES FOR THE WARDS OF DEFENCE PERSONNEL AS A GOVERNMENT OF INDIA NOMINEE

1. Till last year for the admission to Medical/Dental colleges, the priorities also included the wards of serving and Retd. Personnel of the Armed Forces. In view of the limited seats being released by the Ministry



of Health & Family Welfare every year and other and other constraints, the Ministry of Defence has modified the priorities as follow:

Category	Priority
a Killed in Action	1
b Disabled in Action and boarded out from service	2
c Died while in service with death attributable to Military service	3
d Disabled in service and boarded out with disability attributable to Military service	4
e Gallantry award/Decoration Holders (Service/retired)	5

2. It is requested to give wide publicity of the information to all concerned.

Sd/-----
(Sakti Singh)
Brig
Secretary
Kendriya Sainik Board.

7. Followed by above mentioned policy, some 'Demi Official Letter' [in short "DO letters"] came to be issued by Additional Secretary (MoD) on 03.06.1994, 17.11.2000 and 24.08.2003, which sought to omit the word 'boarded out' from "Priority-II" and "Priority-IV" (Annexure P/3-P/6). Subsequent to this a UGC letter dated 07.06.2013, also came to be issued, reiterating the same position as in DO letters.

8. Subsequently, a policy dated 17.02.2015 was issued, reiterating the same position as mentioned in the policy dated 14.05.1992. This was followed by a fresh policy dated 19.05.2017 issued by Government of India (MOD), Department of Ex-Servicemen Welfare/respondent no. 1, in suppression of all previous policy, which for the first time provided for



inter-se priority reservation to the wards of armed personnel for other professional & non – professional courses, other than medical/dental courses. After this, a policy dated 30.11.2017 was issued, and subsequently the impugned Policy came to be issued on 21.05.2018 (hereinafter, ‘impugned policy of 2018’), which reads thus:

F.No.6(1)/2017/D(Res.II)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare

Room No.237 ' B ' Wing
Sena Bhawan, New Delhi
May 21, 2018

To
The Chief Secretaries/ Administrators
All States/UTs.

Subject: Inter-se priority for reservation/preference to the wards of Armed Forces personnel by States /UTs for admission to Medical / Professional / Non-Professional Courses.

Approval of the Competent Authority is conveyed to the removal of Yudh Sewa Medal series of Awards i.e. Sarvottam Yudh Seva Medal, Uttam Yudh Seva Medal and Yudh Seva Medal from Category V of the priority list for reservations/preferences to the wards of Armed Forces personnel by States/UTs/Central /State Universities/ Autonomous Institutions for admission in medical/professional/non-professional courses. The revised list of priorities will be as follows:-

- | | | |
|--------------|---|--|
| Priority I | : | Widows/Wards of Defence personnel killed in action. |
| Priority II | : | Wards of disabled in action and boarded out from service. |
| Priority III | : | Widows/Wards of Defence personnel who died while in service with death attributable to military service. |
| Priority IV | : | Wards of disabled in service and boarded out with |



disability attributable to military service.

Priority V : Wards of Ex-Servicemen and serving personnel who are in receipt of Gallantry Awards:

- i. Param Vir Chakra
- ii. Ashok Chakra
- iii. Maha Vir Chakra
- iv. Kirti Chakra
- v. Vir Chakra
- vi. Shaurya Chakra
- vii. Sena, Nau Sena, Vayu Sena Medal
- viii. Mention-in-Despatches.

Priority VI : Wards of Ex-Servicemen.

Priority VII : Wives of :

- i) defence personnel disabled in action and boarded out from service.
- ii) defence personnel disabled in service and boarded out with disability attributable to military service.
- iii) ex-Servicemen and serving personnel who are in receipt of Gallantry Awards.

Priority VIII : Wards of Serving Personnel.

Priority IX : Wives of Serving Personnel.

2. This issues with the approval of Hon'ble Raksha Mantri and supersedes our earlier letters of even number dated 19.05.2017 and 30.11.2017 on the subject.

(Santosh)

Joint Secretary (Res.II)

Tel.23015772

9. Sequel to above, the office of Dte General, Manpower Policy & Planning (DG MP & P)/ respondent no.3 *vide* certificate dated 21.11.2022, issued a priority certificate in respect of petitioner no.1, the minor son of petitioner no. 2, thereby certifying that petitioner no.1 is eligible for educational concession for admission against the Armed Forces Quota under



“Priority-IV”. Accordingly, the office of respondent no.3, issued an “Entitlement Card” (Card no. 90/2024) in favour of petitioner no.1.

10. However, on 07.11.2024, petitioner no.2 wrote to respondent no.3 requesting that since he retired on 15.08.2011, his ward (petitioner no. 1) be considered as per the then existing policy Letters of 2011 and not the Policy of 2018. However, he was informed by the Army HQ that petitioner no.1 falls in “Priority-IV” and not in “Priority-II”.

11. Mr. Gautam Narayan, learned Senior Counsel appearing for the petitioners, submits that the impugned Policy of 2018, issued by the Government of India (MOD), Department of Ex-Servicemen Welfare/respondent no. 1, which is implemented by the Kendriya Sainik Board/respondent no.2, in so far as it confines the benefit of ‘Priority-II’ categorization only to wards of Armed Forces personnel who were disabled in action and boarded out of service, is arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution, as it discriminates against those personnels who, though disabled in action were retained in service despite their disability.

12. He submits that until the impugned Policy of 2018 was notified, the University of Delhi/respondent no.4 and other institutions, since time immemorial had been admitting wards of officers and soldiers disabled-in-action as ‘Priority-II’ candidates in various educational courses, including both medical & non-medical courses based on policy letter dated 14.05.1992 & by subsequent DOs and UGC letter.

13. He submits that this consistent past practice followed by the respondent no. 4 for decades has given rise to a legitimate expectation in the minds of the petitioners that the benefit of ‘Priority-II’ would continue to be



extended to wards of such personnel. He submits that a deviation from this past practice, constitutes a clear violation of the doctrine of legitimate expectation, rendering the impugned policy arbitrary, unfair, and liable to be set aside.

14. He further submits that the issuance of the 'Priority-IV' certificate dated 21.11.2022 instead of 'Priority-II' is wrongful, as the impugned Policy of 2018 lacks a clause for retrospective application and cannot apply to officers/soldiers disabled-in-action and retired prior to 21.05.2018. Invoking the principle of law that vested benefits under previously existing policy cannot be withdrawn by other policy unless such policy Letter has been expressly made retrospective, he submits that petitioner no. 2, having become a battle casualty in 2004 during 'Operation Rakshak/Parakram' and retired on 15.08.2011, is governed by the policy existing at that time, and the later impugned Policy of 2018 cannot retrospectively take away such vested rights. In support of this submission, reliance is placed upon the decisions in *Railway Board v. C.R Rangadhamaiah*, (1997) 6 SCC 623; *Punjab State Coop. Agricultural Development Bank Ltd. v. Coop. Societies*, (2022) 4 SCC 363; *University of Delhi & Anr v. Zoya Gill & Ors.*, 2017 SCC OnLine Del 10312.

15. He further submits that the distinction drawn between two classes of war disabled soldiers, those "boarded out" and those "retained in service", has no nexus with the objective of granting such priority, which is to honour the soldier's sacrifice. The impugned Policy, therefore, creates an artificial discrimination among equals and is arbitrary.

16. Additionally, he submits that, the impugned policy suffers from the vice of under-inclusion in "Priority-II" and over-inclusion in "Priority-VI"



in so far as servicemen who were disabled in action but continued to serve in the Armed Forces are concerned and is, therefore, violative of Article 14. To buttress his submissions, reliance has placed on the decision of ***Ramesh Chandra Sharma v. State of U.P., (2024) 5 SCC 217.***

17. Moreover, he submits that the impugned Policy of 2018 needs to be read in conjunction with the policy dated 12.05.1997 and if both are read together then the 'Priority-II' would *ipso-facto* include the 'Battle Casualty' cases who were retained in service and subsequently retired in accordance with the policy dated 12.05.1997.

18. Furthermore, he submits that a battle casualty soldier who continues serving derives no extra benefit or advantage, whereas a soldier boarded out receives War-Injury Pension equivalent to the last pay drawn, terminal benefits, and the additional advantage of priority employment. He further submits that under Rule 4 of the Entitlement Rules to Casualty Pensionary Awards to the Armed Forces Personnel, 1982 [hereinafter, 'the Rules'], "invalidment" is a pre-condition for disability pension, and any person leaving in a lower medical category is deemed to have been invalided; therefore, in this backdrop, as petitioner no. 2 is receiving war injury pension which is a form of disability pension, he would also be considered invalided out. To buttress his contention, he places reliance on the decision in ***Union of India v. Angad Singh Titaria, (2015) 12 SCC 257***, particularly para 10 thereof, which reads as under:

"10. Rule 4 of the Entitlement Rules makes it clear that invalidating from service is a necessary condition for grant of disability pension. An individual who, at the time of his release under the Release Regulations, is in a lower medical category than that in which he was recruited will be treated as "invalidated from service".



19. *Per contra*, Mr. Abhishek Yadav, learned SPC, appearing for the respondent no. 1 to 3, submits that *vide* policy dated 14.05.1992 the Government of India, (MOD), Kendriya Sainik Board/respondent no.2, formulated the *inter-se* priorities, thereby recommending ‘Priority-II’ reservation only in Medical/Dental colleges for wards of soldiers “disabled in action” and “boarded out” (Annexure P/2).

20. Subsequently, *vide* a fresh Policy dated 19.05.2017 issued by Government of India (MOD), Department of Ex-Servicemen Welfare/respondent no. 1, in suppression of all previous policies, introduced for the first time *inter se* priority reservation to the wards of Armed Forces personnel for professional & non – professional courses, other than medical courses.

21. He submits that when petitioner no. 2 retired on 15.08.2011, there was no policy in place giving reservation benefit by way of *inter-se* priorities for other professional & non-professional courses, therefore, petitioners’ submission that the impugned Policy of 2018 has been given retrospective application divesting the petitioner of a vested right, is misconceived.

22. He further submits that respondent no. 2, in pursuance of its role of being an attached office of the Department of Ex-Servicemen Welfare, Ministry of Defence (MoD), and entrusted with the responsibility of providing detailed executive directions required for the implementation of policies laid down by the Ministry/Department, issued the Standard Operating Procedure [*hereinafter* referred to as “SOP”] dated 01.07.2020, with the specific aim to amplify and explain in detail each priority



mentioned in the policy dated 19.05.2017, and in its subsequent amendments dated 30.11.2017 and 21.05.2018.

23. He further submits that the SOP was formulated after due consideration of the various Army Orders, Army Instructions, and policy Letters issued by the Government of India (MoD) from time to time, which lay down the conditions for serving, retiring, and authorizing pensions in the Armed Forces.

24. Besides this, the aforesaid SOP was specifically devised to address the practical difficulties previously encountered by the office bearers of the Rajya Sainik Boards (RSB), Zila Sainik Boards (ZSB), and Record Offices while issuing Priority/Educational Concession Certificates.

25. He submits that the impugned Policy of 2018 is well-thought-out, reasoned, and has followed the same logic over many years, as the benefit under “Priority-II” is strictly offered to Armed Forces personnel who have suffered disability that occurred in action, because of which they cannot be retained in service and have to be boarded out of service after going through Invalid Medical Board [in short “IMB”].

26. He further submits that “Priority-IV” is, however, distinct. It includes those armed forces personnel who are disabled-in-service, and are invalided out of service after going through IMB or are retained in service after being downgraded as LMC, but are subsequently invalided out of service under the Army Rules. Therefore, the impugned Policy of 2018, as implemented by the respondent no. 2 under the aegis of the MoD is not arbitrary or violative of Articles 14 or 21 of the Constitution.

27. In support of his contentions, Mr. Yadav has placed reliance on *Ms. Sakshi & Hav Sunil Kumar (Retd.) v. UOI & Ors. [W.P.(C) 8847/2023]*,



Shri Nikhil Choudhary v. UOI [CWP No. 13615/2023], Viney Chaudhary v. Union of India and Ors. [W.P.(C) 3285/2023].

28. Moreover, he submits that, Rule 4 of the Rules, relied upon by the petitioner is applicable solely for the purpose of granting disability pension and its applicability cannot be extended to Policy of 2018 which provides for inter-se priority reservation.

29. Lastly, he submits that while the office of the respondent no.3 had initially issued a 'Priority-IV' *inter-se* priority certificate to the ward of petitioner no. 2 (i.e. petitioner no. 1), but the said certificate was issued erroneously due to an inadvertent administrative oversight. Therefore, in strict accordance with the *ibid* policy & SOP, the petitioner no.1 is entitled only to a 'Priority-VI' *inter-se* priority certificate, falling under the category of 'Wards of Ex-Servicemen'.

30. Mr. Praveen Kumar Singh, learned counsel for the respondent no.4/University of Delhi, submits that respondent no. 4 has been impleaded only as a proforma party in the present petition and no specific cause of action or grievance against the answering respondent no. 4 has been disclosed.

31. He submits that respondent no. 4 strictly adheres to and implements the reservation policies issued by the Government of India regarding the Children/Wards of Armed Forces Personnel (CW) category, subject to approval by the University's Statutory Bodies. The answering respondent no. 4 has no role in the framing of the policy decisions challenged in the present petition.

32. In rejoinder, Mr. Narayan, submits that the respondent no. 1 & 2 in their Counter Affidavit have accepted that the KSB/respondent no.2 is only



an implementing body of Government Policies. Hence, its duty is restricted to the implementation of existing policies without any distortion.

33. He further submits that the respondents' reliance on the judgment of the Coordinate Bench in *Ms. Sakshi (Supra)* is misplaced, as the said judgment is materially distinguishable from the present case as the impugned Policy of 2018 remained unchallenged in that decision, whereas in the present case the petitioners herein have explicitly challenged the *vires* and validity of the Policy dated 21.05.2018.

34. Moreover, he submits that, the primary ground herein is the impermissible retrospective application of the Policy of 2018 and SOP dated 01.07.2020 to a battle casualty that occurred prior to their enactment, and a specific issue of non-retrospectivity was never raised or decided in the decision of *Ms. Sakshi (Supra)*.

35. Additionally, he submits that after the completion of pleadings and the commencement of final arguments, the respondents have belatedly issued a letter dated 04.08.2025, asserting that the 'Priority-IV Certificate' was issued to petitioner no. 1 due to inadvertent oversight. He submits that this contention by the respondent is a blatant afterthought and a calculated attempt to mislead this Court.

36. Further, to buttress his contention, Mr. Narayan highlights the instance of *Ms. Aditi Singh*, D/o Brig. Narinder Singh, who was disabled in action on 13.03.2011 during 'Operation Rakshak'. He submits that, *Ms. Aditi Singh* was granted the benefit of 'Priority-II' for admission into the LLB Course of respondent no. 4 (University of Delhi) in the year 2015.

37. I have heard Mr. Gautam Narayan, learned Sr. Counsel appearing on behalf of the petitioners as well as Mr. Abhishek Yadav, learned Sr. Panel



Counsel appearing on behalf of respondent nos. 1 to 3, and have perused the material available on record.

38. The grievance articulated in the present petition is that the petitioner no. 1, the minor son of petitioner no. 2, was issued Priority Certificates dated 21.11.2022 and 02.07.2025 by the respondent no. 3 and the District Sainik Welfare Office, respectively, on the basis of the impugned Policy Letter of 2018, for educational concession for admission against the CW quota for armed forces personnel under “Priority-IV” which is applicable to ‘wards of disabled-in-service and boarded-out with disability attributable to military service’ and not under “Priority-II” which applies to ‘wards of disabled-in-action and boarded out from service’ thereby excluding wards of those soldiers who, though disabled in action, continued in service.

39. Before examining the factual matrix and merits of the case, it is to be noted that during pendency of the present writ petition, respondent no. 1, while responding to the CM application no. 40174/2025 filed by the petitioners to seek interim protection, *vide* its reply dated 23.07.2025 took a stand that “Priority-IV” certificate was issued erroneously to petitioner no.1 due to an oversight, whereas he was only entitled to “Priority-VI” as per the impugned Policy dated 21.05.2018.

40. Subsequently, *vide* letter dated 04.08.2025, the District Sainik Welfare Office, Bhopal cancelled the “Priority-IV” certificate issued *vide* letter dated 02.07.2025 to petitioner no. 1. It was further observed that petitioner no.1 is entitled to “Priority-VI” instead of “Priority-IV”. The relevant extract of the letter dated 04.08.2025, which was placed on record by the petitioners along with CM APPL. 60994/2025 reads thus:

“DISTRICT SAINIK WELFARE OFFICE



**SAINIK REST HOUSE, BANGANGA CHAURAHA
BHOPAL**

Tele & Fax : 0755 – 2556198

E Mail : dswobho@mp.gov.in

No : DSWO/Bpl/180/5/Wel II/25/833

Dated : 04 Aug 2025

To

*Lt Col Sanjay Tripathi (Retd)
K-4/5, Windsor Hill, Chuna Bhatti
Kolar Road, Bhopal (MP) – 462016*

Sub : ISSUE OF EDUCATIONAL CONCESSION CERTIFICATE

1. *Please refer to your visit to this office on 02 Jul 2025 with respect to issue of Educational Concession Certificate (ECC) to your ward.*
2. *It is intimated to you that Educational Concession Certificate (ECC) to your Ward Mr Atharva Tripathi was issued with Priority IV erroneously due to oversight on 02 Jul 2025.*
3. *As per facts revealed now, you were injured during Op Rakshak in May 2001 and injury was classified as Battle Casualty. You continued to serve and opted for voluntarily retirement in 16 Aug 2011 (AN) after completing 20 years service. Upon retirement, you underwent a Release Medical Board (RMB) instead of Invalided Medical Board (IMB). As per existing policy, your ward is entitled to priority VI (Ward of ESM) ECC instead of Priority IV.*
4. *Apropos, ECC certificate with Priority IV issued to your ward for Mr Atharva Tripathi vide this office letter No DSWO/BPL/180/2/WEL/2025/9 dated 02 Jul 2025 may be “treated as cancelled”.*
5. *It is therefore, requested to return the above ECC issued to you for your ward in original to this office at the earliest. You are advised to obtain ECC in Priority VI only as per policy on ibid subject.*



-s/d-

Col Rajeev Khatri (Retd)
Distt Sainik Welfare Officer

Copy to:-

Jt Dir (Adm & Coord)
Kendriya Sainik Board
West Block IV, Wing VII
RK Puram, New Delhi-110066

Director, Col MP-5
Addl Dte Gen of Manpower (MP-5 (B))
ORO, West Block-III
RK Puram, New Delhi – 11

The Registrar
Delhi University, North Campus
New Delhi – 110011”

- For information please

[emphasis supplied]

41. *Vide* order dated 10.07.2025 passed in the CM APPL. 40174/2025, this Court had observed that the categorization of petitioner no.1, whether it is “Priority-II” or “Priority-IV”, will be subject to the outcome of the writ petition.
42. It is borne out from the record that petitioner no.1 had applied for seat allocation in University of Delhi for B.Com Programme course under “Priority-IV”, as till the time of making an application, the cancellation of “Priority-IV” certificate issued to petitioner no.1 had not been communicated to the petitioners. Accordingly, petitioner no.1 was allotted a seat in Sri Guru Teg Bahadur Khalsa College for B.Com Programme and fee was also deposited by the petitioners, which was acknowledged by the University. However during counselling, petitioner no. 1 was informed that his “Priority-IV” certificate has not been verified by the respondent no.2,



which had led to the filing of CM APPL. 60994/2025 by the petitioners *inter alia* seeking direction that respondent no. 2 be directed to verify the candidature of the petitioner for admission in B.Com Programme course under “Priority-IV”.

43. At the time of issuance of notice in the said application [CM APPL. 60994/2025], Mr. Praveen Kumar Singh, learned counsel appearing on behalf of respondent no.4/University of Delhi was asked to seek instructions as to whether the seat that was allotted to the petitioner in the counselling is still available to the petitioner in aforesaid college. Accordingly, on 25.09.2025, Mr. Kumar, on instructions, submitted that petitioner no.1’s admission in Sri Guru Teg Bahadur Khalsa College has not been cancelled.

44. Since it had not come on record as to whether the admission of the petitioner no.1 in the aforesaid college has been verified by respondent no.2 on the basis of which “Priority”, the matter was listed for seeking clarification on 16.01.2026.

45. On 16.01.2026, Mr. Gautam Narayan, learned senior counsel, on instructions, submitted that the petitioner no.1 was though granted admission in B.Com programme in Sri Guru Teg Bahadur Khalsa College, but the petitioner had later withdrawn his admission.

46. Therefore, the controversy as regards priority categorization, whether the petitioner no.1 is entitled for reservation under ‘Priority-II’; ‘Priority-IV’ or ‘Priority-VI’ still looms large and needs to be addressed in the present judgment.

47. The facts which are not in dispute are that petitioner no.2 was a Permanent Commissioned Officer having joined Indian Army on 08.06.1991. On 09.05.2001, he became permanently disabled after



sustaining 40% composite disability during “Operation Rakshak/Parakram” while deployed in Jammu and Kashmir. Accordingly, he was declared “Battle Casualty” *vide* letter dated 31.05.2004. However, he was retained in service till completion of his term of engagement, based on the nature of injury, therefore, Invalided Medical Board (IMB) proceedings were not initiated by the competent medical authority against petitioner no.2, though after lapse of considerable time, petitioner no.2 applied for premature retirement (PMR) which was granted to him w.e.f 15.08.2011.

48. When petitioner no.2 got premature retirement on 15.08.2011, there existed no policy extending the benefit of reservation in the form of *inter-se* priorities to other professional and non-professional courses, except for medical/dental courses, therefore, petitioners’ submission that they should be governed by the Policy Letter which was in force at the time petitioner no. 2 retired i.e. on 15.08.2011 is misplaced. Rather, the petitioners have themselves admitted that there did not exist any Policy extending the benefit of reservation in the form of *inter-se* priorities with respect to admission to Non-Medical/Non-Dental Undergraduate/Post-Graduate and MBA Courses at that relevant time, and such a Policy came to be issued for the first time only on 19.05.2017.

49. In order to appreciate the controversy involved in the present case, it is essential to understand the background and objective behind *inter-se* priorities for grant of reservation under the CW quota of armed forces personnel. The reservation of seats in Medical and Dental Colleges of wards/widows of Armed Forces Personnel was introduced in 1992. Subsequently, provision was made for reservation for wards/widows of Armed Forces personnel in other Professional/Non Professional courses by



the Department of Ex-servicemen Welfare (DESW) with the issuance of letter No 6(1)/2017/D(Res-II) dated 19.05.2017 and its two subsequent amendments on 30.11.2017 and then in the form of impugned Policy of 2018, which also laid down *inter-se* priority for such reservation.

50. In July 2020 DESW notified the Standard Operating Procedure (SOP), the aim of which was to amplify each priority mentioned in policy letter dated 19.05.2017 and its subsequent amendments on 30.11.2017 and 21.05.2018 (impugned Policy) in detail, in light of various Army orders, Army instructions and letters issued by GOI MoD from time to time.

51. The SOP has been placed on record by the respondent no. 1 & 2 through their counter-affidavit. The relevant extracts from the SOP which gives the historical background of the reservation provided to the wards of Armed Forces Personnel and *inter-se* priority and the aim with which such SOP was brought, are reproduced hereunder for ready reference:

*“Tele:26188098
Fax:26192362*

*Kendriya Sainik Board
Ministry of Defence
Kendriya Sainik Board
West Block-IV Wing-VII
R K Puram
New Delhi-110066*

370/Adm/MBBS/BDS/C

01 Jul 2020

*Director DSW, Secretary RSB of
All States/UTs*

**STANDARD OPERATING PROCEDURE FOR INTER-SE
PRIORITY FOR RESERVATION/PREFERENCE TO THE
WARDS OF ARMED FORCES PERSONNEL BY STATE/UTs
FOR ADMISSION TO MEDICAL / PROFESSIONAL / NON-
PROFESSIONAL COURSES**



1. It is intimated that the central state universities Institutions/Colleges were requested to make provision for reservation for widows/wives/wards of Armed Forces personal and ESM to fill up the reserved seats strictly in accordance with priorities lay down by Ministry of Defence (MoD) for reservations of seats under the defence category. It was generally felt that the Central/State Universities/Institutions/Colleges were not provide reservation for wards of defence personnel and also not filling seats as per priorities. It is also observed that the office bearer of ZSB/RSBs/Record offices were also facing difficulties while using Priority/Educational concession certificate to the wards of defence personnel.

2. Keeping in mind the difficulties as face by the RO/ZSB/RSBs, an SOP on the subject has been friend by KSB for easy transparency in documentation for issuing Priority/Educational concession certificate to the ward of defence personnel at Central/State Universities/Institutions/Colleges and same is forwarded herewith for strictly implementation at your end.

3. Please ack.

-s/d-
(N Thaphlal)
Lt Col
Jt Dir (Adm & Coord)
For Secretary KSB

SOP

INTER-SE PRORITY FOR RESERVATION/PREFERENCE TO THE WARDS OF ARMED FORCES PERSONNEL BY STATE/UTs FOR ADMISSION TO MEDICAL / PROFESSIONAL / NON-PROFESSIONAL COURSES

Introduction

1. The Kendriya Sainik Board (DSB) Sectt is the apex body of Government of India responsible for implementing Government



*policies for welfare of Ex-Servicemen (ESM), disabled ESM and dependents / Wards of ESM. With the effort of KSB Sectt the reservation of seats in Medical and Dental Colleges of wards/widows of Armed Forces Personnel was introduced in 1967. In 1991 Mr Abraham Prathipati, Additional Secretary, Department of Defence, MoD requested States/UTs to consider Wards of Widows of ESM for seats in professional colleges including MBBS/BDS seats and same was reiterate by Hon'ble RM vide his DO letter No 12(73)US(WE)2000/D(Res)/7883-F/RM dated 17 Nov 2000 and No 12 (73)/US(WE)00/2688-F/RM dated 29 Aug 2003 addressed to Ministry of Human Resources Development, GOI and also stipulated the priorities for reserved seats for wards of Defence personnel in Medical/other Professional colleges in States/UTs. Due to these requests States, Central universities and other institutions across the country has started offering reservation towards wards / widows of Armed Forces personnel in Professional/Non professional courses. **To distribute the allotted quota among eligible candidates in possible way there was a need to lay down prioritise / categorise to distribute reservation quota among beneficiaries, so that the quota is distributed in the best possible way.***

Requirement of Inter-se Priority for Reservation/Preferences in Educational Institute

2. *To distribute the allotted quota given by States/UTs in educational institutions among eligible candidates (to wards/widows of Armed Forces Personnel) in the best possible way, Department of Ex-servicemen Welfare, in the year 2017 has issued a letter No 6(1)/2017/D(Res-II) dated 19 May 2017 and its subsequent amendments in Nov 2017 and 21 May 2018 (Appx 'A') laying down inter-se priority for reservation /preferences to the wards/widows of Armed Forces Personnel by States/UTs for admission to Medical/Professional/Non Professional courses.*

Requirement of Educational Concession Certificate

3. *Universities and educational institution which are giving*



reservation/preferences towards/ widows of Armed Forces Personnel for admission to Medical/professional/Non-professional courses are not well versed with service conditions and documentation procedures. To allot vacancies as per DESW letter No 6(1)/2017/D/(Res-II) dated 19 May 2017 and its subsequent amendments in Nov 2017 and 21 May 2018 (Appx 'A') universities have started asking students candidates to furnish educational concessional certificate mentioning inter-se priority for reservation/preference to be vetted and signed by Zila Sainik Board/Rajya Sainik Board/Kendriya Sainik Board.

Requirement of SOP for Issuing Educational Concession

4. All ZSBs/RSBs/KSB officials have a fair knowledge of service documentation but to allot certain priority in educational concession certificate, there is a need to study different Army orders, Army instructions and letters issued by GOI MoD from time to time laying down conditions of serving/retiring/authorising pension in Armed Forces. In view of the above to implement DESW letter No 6(1)/2017/D(Res-II) dated 19 May 2017 and its subsequent amendments in Nov 2017 and 21 May 2018 (Appx 'A') and for giving reservation /preference to the wards of armed forces personnel for admission to medical/professional/non-professional courses, there is a need to prepare SOP amplifying each priority in detail along with, documents required to assess correct priorities In light of various Army orders, Army instructions and letters issued by GOI MoD from time to time laying down conditions of serving/retiring/authorising pension in Armed Forces.

Aim

5. The aim of the SOP is to amplify each priority mentioned in DESW letter No 6(1)/2017/D(Res-I) dated 19 May 2017 and its subsequent amendments in Nov 2017 and 21 May 2018 (Appx 'A') in detail, in light of various Army orders, Army instructions and letters issued by GOI MoD from time to time laying down conditions of serving/retiring/authorising pension in Armed



Forces.”

52. In the SOP, each priority has been explained at length, delineating the eligibility & non-eligibility criteria for the same. The relevant extract from SOP pertaining to Priority-II; Priority-IV and Priority-VI, reads thus:

“7. **Priority-II Wards of disabled in action and boarded out from service**

Eligible

All the Armed Forces Personnel who are injured/disabled in action under the circumstances mentioned in AO/1/2003/MP and declared Battle casualty, and are invalided out of service on account of disability under AR 13,3, III(iii) after having undergone IMB and are entitled to War Injury Pension consisting of service element and war injury element or liberalized disability pension consisting of service element and disability element as per Para 6.1 of MoD(GOI) letter 1(2)/97/1/D(Pen-C) dated 31st Jan 2001 (Appx 'C') and its subsequent amendment letter then their wards are eligible for claiming Priority-II.

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Not-Eligible

All Armed Forces Personnel who are injured in action or circumstances mentioned in AO/1/2003/MP and declared Battle casualty, despite having disability being retained in service and retired subsequently under Army Rule 13 3 III (i), 13 3 II(ii) or took premature retirement under own request under Army Rule 13 3 III (iv) and are in receipt of war injury element or liberalized disability element their wards are not entitled for P-II as per Para 11 (Appx 'C') but will only be considered as ESM hence can apply under P-VI.

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9. **PRIORITY-IV Wards of Disabled in Service and Boarded out with Disability Attributable to Military Service**

Eligible



(i) All Armed Forces Personnel who were found medically unfit for further service due to disability occurred in service conditions (as mentioned in category 'B' and 'C' of para 4.1 of Ministry of Defence, Govt of India letter No 1 (2) 97/I/D (Pen-C) dated 31 Jan 2001 (Appx 'C') and subsequent amendments) and are invalid out from service as per Army Rule 13 3 III (iii) after having Invalid Medical Board and are in receipt of Disability Pension consisting of Service Element and Disability Element as per Para 7 (Appx 'C') are eligible for Priority-IV.

(ii) All Armed Forces Personnel who were found medically unfit for certain duties due to disability occurred in service conditions (as mentioned in category 'B' and 'C' of para 4.1 of Ministry of Defence, Govt of India letter No 1 (2) 97/I/D (Pen-C) dated 31 Jan 2001 (Appx 'C') and subsequent amendments) and are retained in service after being downgraded as (LMC) due to disability by the competent medical authorities and subsequently invalidated out of service under Army Rule:

(aa) 13 3 III (iii) (a) (i)- no sheltered appointment is available in the unit (LMC cases only).

(ab) 13 3 III (v) - only on LMC ground which is attributable to aggravated by military service.

(ac) Are in receipt of Disability Pension consisting of Service Element and Disability Element are eligible for Priority-IV.

(iii) All Armed Forces Recruits who were invalid out from service as per Army Rule 13 3 IV after having Invalid Medical Board and are granted Medical/Disability Pension and ESM status as per DESW, Ministry of Defence letter 12/I/2005/D(Res) dated 01 Feb 2006 (Appx 'D') are eligible for Priority-IV.

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Not-Eligible

As per letter DESW, MoD letter No. 6(1)/2017/D (Res.II) dated 21 May 2018 (Appx 'A') who should be not entitled to avail the benefits under Priority-IV (i.e. Wards of disabled in service and boarded out from the service with disability Attributable to



Military Service) are mentioned below:-

(i) All Armed Forces Personnel who were retired/discharged from service on fulfilling the conditions of his enrolment or having reached the stage at which discharge may be enforced as per Army Rule 13 3 III (ii) and entitled to disability element as per Para 8 (Appx 'C') are not eligible for Priority-IV.

(ii) All Armed Forces Personnel who were retired/discharged from service on completion of period of army, service only, there being no vacancy in the Reserve as per Army Rule 13 3 III (ii) are not eligible for Priority-IV.

(iii) All Armed Forces Personnel who were retired/discharged from service at his own request before fulfilling the conditions of his enrolment as per Army Rule 13 3 III (iv) are not eligible for Priority-IV.

(iv) All Armed Forces Personnel who were retired/discharged from service in any circumstances having not attributable and not aggravated (NANA) shall not be eligible for Priority-IV.

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11. Priority-VI Wards of Ex-Servicemen

As per Ministry of Defence, Govt of India File No 36034/I/06-Estt (SCT) dated 04 Oct 2012 (Appx 'E') an ex-serviceman means a person –

(a) 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

(b) 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

(c) 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”



53. The eligibility criteria for “Priority-II” provides that the wards of armed forces personnel who are injured/disabled-in-action, declared battle casualty and are invalided out of service on account of disability after having undergone Invalid Medical Board (IMB) are entitled to war injury pension consisting of service element and war injury element or entitled to liberalized disability pension consisting of service element and disability element, are eligible for “Priority-II”.

53.1 The condition of *non-eligibility* as provided in “Priority-II” makes it evident that all armed forces personnel who are though injured in action and declared battle casualty, but despite having disability have been retained in service and retired subsequently or took premature retirement under own request and are in receipt of war injury element or liberalized disability element, their wards are not entitled for “Priority-II” but will only be considered as ex-servicemen (ESM), hence can apply under “Priority-VI”.

54. As per eligibility condition (i) under ‘Priority-IV’, all armed forces personnel who are medically unfit for further service due to disability occurring in service and have been invalided out from service after undergoing IMB and are receiving disability pension, are eligible for “Priority-IV”.

54.1 Condition (ii) of eligibility under “Priority-IV” provides that all armed forces personnel who are found unfit for certain duties due to disability occurring in service and are retained in service after being downgraded as Lower Medical Category (LMC) due to disability assessed by the competent medical authorities and are subsequently invalided out of service under Army Rules, are also eligible for “Priority-IV”.



54.2 Likewise, all armed forces recruits who are invalided out of service as per Army Rules after undergoing IMB and are granted medical/disability pension and ex-servicemen (ESM) status are also eligible for “Priority-IV” in terms of condition (iii) of eligibility.

54.3 Pertinently, condition (iii) of *non-eligibility* under “Priority-IV” provides that those armed forces personnel who were retired/discharged from service at their own request are not eligible for “Priority-IV”. In other words, personnel who is quitting the service out of his own freewill and has not been invalided out of service under the IMB is not eligible for “Priority-IV”.

55. A reading of “Priority-VI” category (wards of ESM) shows that it *inter alia* covers the wards of those armed forces personnel who has been retired or relieved or discharged from service whether at his own request or relieved by the employer after earning his or her pension.

56. Juxtaposed reading of the eligibility and non-eligibility conditions of “Priority-II”, “Priority-IV” and “Priority-VI” makes it plain that wards of armed forces personnel who are injured/disabled-in-action and are boarded out after having undergone invaliding proceeding by IMB are eligible for claiming “Priority-II”; whereas those armed forces personnel who are disabled-in-service, and are invalided out of service after going through IMB or are retained in service after being downgraded as LMC, but are subsequently invalided out of service under the Army Rules after undergoing IMB, are eligible for “Priority-IV”. However, those, who were retained in service despite disability and had an opportunity to render full service and actually rendered full service or voluntarily took retirement prematurely, are to be considered eligible only under “Priority-VI”.



57. Even condition (iii) of *non-eligibility* under “Priority-II” also makes it clear that the armed forces personnel who are injured in action but took premature retirement on their own request will be considered as ex-servicemen (ESM) and can apply under “Priority-VI”.

58. Therefore, in light of the Policy of 2018 read with SOP, the case of the petitioner no.1 falls under “Priority-VI” as his father, the petitioner no. 2, was allowed to complete his full service notwithstanding him being declared as battle casualty.

59. This Court is of the considered view that there cannot be any comparison between “Priority-II”; “Priority-IV” and “Priority-VI”. Each of these Priorities under the Policy of 2018, as amplified in the SOP, are based on various factors. Merely because the armed forces personnel has been disabled-in-action or has been declared as battle casualty, will not make his/her wards eligible to claim “Priority-II” or “Priority-IV”. The other relevant factors like whether, he was invalidated out or he was retained in service and given an option to render full service or has taken a pre mature retirement, plays crucial role in deciding the priority under which benefit of reservation can be provided.

60. The Policy of 2018 which carves out different Priorities/Categories based on various relevant factors is well thought out and reasoned, and cannot be termed as arbitrary in any manner. This Court finds that there exists a reasonable basis for such classification, which has a distinct rationale and a clear nexus with the object sought to be achieved. The Main object for incorporating these priorities is to recognize the fact that the concerned Armed Forces Personnel, who incurred ‘disability in action’ or ‘disability in service’ and could not complete the normal service tenure,



their wards should be compensated by giving higher priorities viz. “Priority-II” or “Priority-IV”, respectively, so that they should not feel left out on being ‘boarded out’. Further, the Armed Forces Personnel who is ‘boarded out’ also suffers financial hardships on account of discontinuation of salary and service benefits, as compared to those who are retained in service and will continue to receive full salary, all promotions and other associated benefits. Therefore, the differentiation in entitlements under different priorities is based on rational and documented grounds, considering the nature of service, long-term welfare implications and other distinctions.

61. Resultantly, the submission of Mr. Narayan that a battle casualty soldier who continues to serve derives no extra benefit or advantage, whereas a soldier boarded out receives War-Injury Pension equivalent to the last pay drawn, terminal benefits, and the additional advantage of priority employment, is misconceived, and is accordingly rejected.

62. Further, referring to Rule 4 of the Rules and the decision in *Angad Singh Titaria* (supra), Mr. Narayan had argued that “invalidment” is a precondition for disability pension, and any person leaving in a lower medical category is deemed to have been invalided; therefore, in this backdrop, as petitioner no.2 is receiving war injury pension which is a form of disability pension, he would also be considered invalided out. The argument is fallacious. Rule 4 of the *Entitlement Rules to Casualty Pensionary Awards to the Armed Forces Personnel, 1982* is applicable solely for the purpose of granting disability pension and cannot be made applicable for categorization under inter-se priority for reservation under the impugned Policy of 2018. The “deemed status” of being invalided out provided under the said Rule as construed in *Angad Singh Titaria* (supra) is a legal fiction created for the



limited purpose of pensionary benefits and does not alter the factual status of the petitioner no.2 having quit the service on his own after taking Premature Retirement and not being invalidated out through a Invalided Medical Board (IMB).

63. Likewise, this Court does not find merit in the submission of Mr. Narayan that the impugned Policy of 2018 is arbitrary or suffers from the vice of Under-inclusion in “Priority-II” and Over-inclusion in “Priority-IV” or “Priority VI”. The wards of soldiers who were disabled-in-action / disabled-in-service and invalidated out of service before rendering their full service, in the considered opinion of this Court, have rightly been categorized in higher priorities viz. “Priority-II” and “Priority-IV” as against the wards those personnel who were ‘retained in service’ with the option to complete their term and subsequently took Premature Retirement.

64. Though Article 14 provides for equality before law, it undoubtedly allows for reasonable classification, based upon intelligible differentia, having a rational nexus with the object sought to be achieved. The law is well settled that the principle of equality does not imply that the same law must apply to everyone; rather, it mandates that the law should deal alike with all in one class, ensuring equality of treatment under equal circumstances. In other words, equals should not be treated unlike and unlike should not be treated alike; rather, likes should be treated alike. Reference in this regard may be had to the decision of Hon’ble Supreme court in ***Binoy Viswam v. Union of India, (2017) 7 SCC 59***, wherein it has been observed as under –

“100. Article 14, which enshrines the principle of equality as a fundamental right mandates that the State shall not deny to any



*person equality before the law or the equal protection of the laws within the territory of India. It, thus, gives the right to equal treatment in similar circumstances, both in privileges conferred and in the liabilities imposed. In Srinivasa Theatre v. State of T.N. [Srinivasa Theatre v. State of T.N., (1992) 2 SCC 643] , this Court explained that the two expressions “equality before law” and “equal protection of law” do not mean the same thing even if there may be much in common between them. “Equality before law” is a dynamic concept having many facets. One facet is that there shall be no privileged person or class and that none shall be above law. Another facet is “the obligation upon the State to bring about, through the machinery of law, a more equal society ... for, equality before law can be predicated meaningfully only in an equal society ...”. **The Court further observed that Article 14 prescribes equality before law. But the fact remains that all persons are not equal by nature, attainment or circumstances, and, therefore, a mechanical equality before the law may result in injustice. Thus, the guarantee against the denial of equal protection of the law does not mean that identically the same rules of law should be made applicable to all persons in spite of difference in circumstances or conditions (see Charanjit Lal Chowdhury v. Union of India [Charanjit Lal Chowdhury v. Union of India, 1950 SCC 833 : AIR 1951 SC 41 : 1950 SCR 869]).***

101. *The varying needs of different classes or sections of people require differential and separate treatment. The legislature is required to deal with diverse problems arising out of an infinite variety of human relations. It must, therefore, necessarily have the power of making laws to attain particular objects and, for that purpose, of distinguishing, selecting and classifying persons and things upon which its laws are to operate. **The principle of equality of law, thus, means not that the same law should apply to everyone but that a law should deal alike with all in one class; that there should be an equality of treatment under equal circumstances. It means that equals should not be treated unlike and unlikes should not be treated alike. Likes should be treated alike.***

102. *What follows is that Article 14 forbids class legislation; it does not forbid reasonable classification of persons, objects and transactions by the legislature for the purpose of achieving specific*



ends. Classification to be reasonable should fulfil the following two tests:

102.1. It should not be arbitrary, artificial or evasive. It should be based on an intelligible differentia, some real and substantial distinction, which distinguishes persons or things grouped together in the class from others left out of it.

102.2. The differentia adopted as the basis of classification must have a rational or reasonable nexus with the object sought to be achieved by the statute in question.

103. Thus, Article 14 in its ambit and sweep involves two facets viz. it permits reasonable classification which is founded on intelligible differentia and accommodates the practical needs of the society and the differentia must have a rational relation to the objects sought to be achieved. Further, it does not allow any kind of arbitrariness and ensures fairness and equality of treatment. It is the fons juris of our Constitution, the fountainhead of justice. Differential treatment does not per se amount to violation of Article 14 of the Constitution and it violates Article 14 only when there is no reasonable basis and there are several tests to decide whether a classification is reasonable or not and one of the tests will be as to whether it is conducive to the functioning of modern society.”

(emphasis supplied)

65. Also, it is a settled law that policy decisions are not subject to judicial interference unless they are shown to be arbitrary, unreasonable or manifestly illegal. As this Court has already come to the conclusion that the Policy of 2018 is neither arbitrary nor discriminatory, therefore, the said policy does not call for any interference. For the same reason, petitioners reliance on the decision of **Ramesh Chandra Sharma** (*Supra*) to contend that classification in impugned Policy of 2018 is not reasonable and does not have any rational nexus with the object sought to be achieved, is misplaced.

66. There is also no force in the submission that petitioner no.1 should be granted admission on the basis of legitimate expectation to “Priority-II” as



University of Delhi, since time immemorial, had been granting admission to wards of servicemen/ex-servicemen who were disabled, under the “Priority-II” in all non-medical/non-dental streams/courses. As noted above there was no policy in place providing for reservation in professional and non-professional courses except in medical/dental courses, prior to May, 2017. For the sake of arguments, assuming that there was any such practice, this Court is of the view that an alleged practice by University of Delhi will not give rise to any legitimate expectation when it is not based on a legitimate policy issued by the respondents.

67. It is a settled proposition of law that the legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense. Unless a legal obligation exists, there cannot be legitimate expectation. In this regard reference may be had to the decision of the Hon’ble Supreme court in *State of Bihar and ors. v. Sachindra Narayan and ors.*, (2019) 3 SCC 803, wherein it had observed as under –

“21. In the judgment reported as *Union of India v. Hindustan Development Corpn.* [*Union of India v. Hindustan Development Corpn.*, (1993) 3 SCC 499], it was held that a pious hope even leading to moral obligation cannot amount to a legitimate expectation. *The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence.* It was held : (SCC pp. 540 & 546-49, paras 28, 33 & 35)

“28. Time is a three-fold present : the present as we experience it, the past as a present memory and future as a present expectation. For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire



*or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. **The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.***

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33. *On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negating a promise or withdrawing an undertaking is taken. The doctrine does not give scope to claim relief straightaway from the administrative authorities as no crystallised right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise. In other words where a person's legitimate expectation is not fulfilled by taking a particular decision then decision-maker should justify the denial of such expectation by showing some overriding public interest. Therefore even if substantive protection of such expectation is contemplated that does not grant an absolute right to a particular person. It simply ensures the circumstances in which that expectation may be denied or restricted. **A case of legitimate expectation would arise when a body by representation or by past practice aroused expectation which it would be within its powers to fulfil.** The protection is limited to that extent and a judicial review can be within those limits. But*



as discussed above a person who bases his claim on the doctrine of legitimate expectation, in the first instance, must satisfy that there is a foundation and thus has locus standi to make such a claim. In considering the same several factors which give rise to such legitimate expectation must be present. The decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest. If it is a question of policy, even by way of change of old policy, the courts cannot interfere with a decision. ...

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*35. ... It can therefore be seen that legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited. It would thus appear that there are stronger reasons as to why the legitimate expectation should not be substantively protected than the reasons as to why it should be protected. In other words such a legal obligation exists whenever the case supporting the same in terms of legal principles of different sorts, is stronger than the case against it. As **observed in Attorney General for New South Wales case [Attorney General for New South Wales v. Quinn, (1990) 64 Aust LJR 327] :‘To strike down the exercise of administrative power solely on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to set the courts adrift on a featureless sea of pragmatism. Moreover, the notion of a legitimate expectation (falling short of a legal right) is too nebulous to form a basis for invalidating the exercise of a power when its exercise otherwise accords with law.’ If a denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. It can be one of the grounds to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference.”***



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23. In view of the above judgments, legitimate expectation is one of the grounds of judicial review but unless a legal obligation exists, there cannot be any legitimate expectation. The legitimate expectation is not a wish or a desire or a hope, therefore, it cannot be claimed or demanded as a right. The payment of pension in the past will not confer an enforceable right in favour of the Institute or its employees.”

(emphasis supplied)

68. In light of the law expounded in *Sachindra Narayan* (supra), it follows that merely because Delhi University in the past had given admission to the wards of servicemen/ex-servicemen who were disabled, under the “Priority II” without there being any policy in that behalf, will not confer an enforceable right in favour of petitioners, and that too contrary to the Policy of 2018, which is now in place and has been held by this Court to be rational and non-arbitrary in the foregoing paragraphs.

69. Likewise, the submission of Mr. Narayan regarding inapplicability of the impugned Policy of 2018 retrospectively, on the ground that it divests petitioner no. 1 of his vested right, is noted to be rejected. The law is well settled that vested right can arise from contract, statute or by operation of law. Unless an accrued or vested right has been derived by a party, the policy decision/scheme could be changed.¹ Prior to May, 2017 there was no extant Policy providing for reservation of seats for the courses other than for medical/dental colleges, therefore, no vested rights could have crystallized prior to the said date. Even the Policy of May, 2017 or impugned Policy of 2018 does not create any legal right in favour of the petitioners for “Priority-

¹ *MGB Gramin Bank vs Chakrawarti Singh, (2014) 13 SCC 583*



II” or “Priority-IV”, rather this Court has found that the petitioner no.1 is legitimately entitled to “Priority-VI” in terms of Policy of 2018. Therefore, no vested right could have accrued to petitioner no.1 for “Priority-II” or “Priority-IV”, contrary to the extant Policy. That being the position, the petitioners’ reliance on the decision of *Railway Board (Supra)* and *Punjab State Coop. Agricultural Development Bank Ltd (Supra)*, for claiming vested right is misplaced.

70. Insofar as the instance of *Aditi Singh* cited by the petitioners is concerned, it is pertinent to note that she was granted admission in 2015, long before the impugned Policy of 2018 came into effect. In the opinion of this Court, the right to claim reservation has accrued to the petitioner no.1 only under the Policy of 2018, therefore, he cannot rely on an instance that predates the said policy. In other words, there was no extant policy in place granting reservation in the professional and non-professional courses, except for medical/dental courses, in the year 2015, therefore, the petitioner no.1 cannot claim negative equality with *Aditi Singh*.

71. Next, it was argued by Mr. Narayan that the petitioner no.1 had been issued “Priority-IV” certificate but after the petitioners have filed the present petition claiming “Priority-II”, the respondents no. 1 and 2 cancelled the said certificate and now categorised the petitioner no.1 under “Priority-VI”, which has been done out of vengeance. Therefore, the petitioner no.1’s “Priority-IV” at least needs to be restored. This submission is also devoid of merit. The stand taken by the respondents no. 1 and 2 is that the certificate for “Priority-IV” was issued inadvertently, the petitioner no.1 is actually entitled for “Priority-VI”. This Court has also found that in terms of Policy of 2018, the correct category of the petitioner no.1 will be “Priority-VI”.



Therefore, this Court cannot issue mandamus to the respondents no.1 and 2 to reinstate the petitioner no.1's status under "Priority-IV" contrary to Policy of 2018. It is a trite law that no direction can be issued mandating the State or its instrumentalities to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable. The following observations of the Hon'ble Supreme court in *Tinku vs State of Haryana & Ors., 2024 SCC Online SC 3292* though made to drive home the point that there cannot be negative equality, can advantageously be referred:

“11. The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having sanctity of law. No direction can, therefore, be issued mandating the State to perpetuate any illegality or irregularity committed in favour of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable. Similarly, passing of an illegal order wrongfully conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would court be bound to accept such plea. The court will not compel the authority to repeat that illegality over again. If such claims are entertained and directions issued, that would not only be against the tenets of the justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification.

(emphasis supplied)

72. Furthermore, the submission of the petitioners predicated on certain Demi-Official Letters issued *vide* dates 03.06.1994, 17.11.2000, and 24.08.2003, alongside a UGC letter dated 07.06.2003, which did not include



the term “boarded out” in categorizing “Priority-II” is also misplaced. Notably, through above demi-official Letters, only a recommendation was made and no policy decision as such, was taken. In the realm of administrative law, the demi-official letters are used in correspondence between Government Officers for inviting their personal attention on an issue, and they cannot assume the character of a policy, or displace or supersede the extant policy.² Therefore, no benefit of such demi-official letters will ensure to the petitioners, when the same are contrary to the extant policy of 2018.

73. The reliance placed by the petitioners on the judgment of *Zoya Gill* (supra) is also misplaced. In the said decision, the University of Delhi had sought to change its stand from what was explicitly mentioned in the Information Bulletin. Therein the Court viewed such a change as prejudicial to the rights of the petitioner, observing that once admission was granted, a vested right had been created in her favour. Consequently, it was held that a conflicting stand could not be taken against a person in whose favour such a right had already accrued. The said decision is clearly distinguishable on facts. In the instant case, unlike in *Zoya Gill* (supra), no vested right has accrued in favour of the Petitioners herein.

² Central secretariat manual of office procedure fourteenth edition. Available at: https://darpg.gov.in/sites/default/files/CSMOP_0_0.pdf



74. The upshot of the above discussion is that the petition is devoid of merit. Accordingly, the petition along with pending applications is dismissed.

VIKAS MAHAJAN, J

FEBRUARY 24, 2026/dss/jg