

Aidsa Association Vs. Union of India (Uoi) and ors.

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Court : Delhi

Decided On : Nov-22-2002

Reported in : 101(2002)DLT464; 2003(66)DRJ213

Judge : Anil Dev Singh and; R.S. Sodhi, JJ.

Acts : [Constitution of India](#) - Article 19(1)

Appeal No. : CWP No. 2206/2002

Appellant : Aidsa Association

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : K.K. Sud, ASG and ; Neeraj Jain, Adv.

Advocate for Pet/Ap. : J. Manhas, Adv

Judgement :

Anil Dev Singh, J.

1. By this writ petition, the petitioner seeks the following reliefs:

'a) issue writ of mandamus directing the Respondents to publish all the non-statutory administrative instructions/orders, memoranda etc. governing the terms and conditions of service/pensions of persons in Armed Forces and military pensioners within 3 months:

b) issue writ of mandamus directing the Respondents to make the said publications freely available to public;

c) in the alternative issue writ of mandamus directing respondents to supply all the administrative instructions/orders and memoranda etc with up to date amendments to the Petitioner with permission to publish at their cost and right to sell the same; and

d) pass any other order or further orders as deemed fit and proper in the interest of justice.'

2. The terms and conditions of service of Armed Forces are governed by the statutory acts and regulations framed therein. The conditions of service of the Armed Forces are also contained in various orders, notifications, memoranda and instructions. The allegation of the petitioner is that these documents are not published and therefore are not available to the members of the Forces with the result that they are not aware of their rights under the various statutory provisions, regulations, orders, notifications, instructions and memoranda. It cannot be disputed that it is the right of the members of the Armed Forces to know the rules, regulations, orders, instructions, memoranda and notifications dealing with their service condition including matters relating to pensionary benefits etc. In case the acts, rules, orders, instructions, memoranda, notifications, etc., are not published, it will result in violation of the right of the members of the armed forces to information which is guaranteed by the Constitution.

3. The learned Additional Solicitor General candidly states that the acts, rules, regulations, instructions, orders and memoranda dealing with the service conditions of the members of the Armed Forces which have not been published by the Services, shall be published subject to security clearance by the concerned Directorate of Service Headquarters. The learned Additional Solicitor General has also invited our attention to para 10 of the counter affidavit, which states as follows:

'10. That in reply to ground 'C' it is submitted that all such documents governing terms and conditions of service of Servicemen and Ex Servicemen subject to

security clearance by the concerned Directorates of Service HQs and Section of Ministry of defense from time to time would also be made available on website in due course of time.'

4. Keeping in view Article 19(1) of the Constitution and the stand of the respondents, we direct that all statutes, rules, orders, regulations, notifications, memoranda, instructions and all other documents by whatever name they may be called, dealing with service conditions of the members of the Armed Forces including those dealing with their retiral benefits, except the ones which relate to and affect security of the State and whose disclosure shall not be in the public interest, shall be published by the respondents. The aforesaid material relating to the service conditions of the members of the Armed Forces shall be made available on the website but this shall be subject to security clearance by the concerned Directorate of Service HQs and Section of Ministry of defense. The aforesaid documents shall be published in the first instance through Sainik Board. The task shall be completed within a period of six months.

5. With the aforesaid direction, CW 2206/2002 stands disposed of.

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