



2026:AHC:56800-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
SPECIAL APPEAL No. - 283 of 2026

Capt. (In) Ak Sharma (Retd.)

.....Appellant(s)

Versus

Union Of India And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	: Anil Kumar Yadav
Counsel for Respondent(s)	: A.S.G.I., C.S.C., Dinesh Varun, Rajesh Tripathi

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.

HON'BLE VIVEK SARAN, J.

1. Heard Sri V.K. Singh, learned Senior Advocate assisted by Sri Anil Kumar Yadav, learned counsel for the original petitioner, Sri Rajesh Tripathi, learned Standing Counsel for the Central Government and Sri Arimardan Singh Rajput, learned Chief Standing Counsel for the State.

2. By means of the present intra-court appeal, challenge has been raised to the order dated 10.02.2026 passed by the learned single in **Major Dr. Sanjay Srivastava v. Union of India and 4 Others, 2026:AHC:31074**. By that order learned single judge has dismissed the writ petition and found that the petitioner is not entitled to continue as Zila Sainik Welfare Officer (hereinafter referred to as 'ZSWO') for a term of five years, under the latest guidelines dated 30.08.2024.

3. The submissions advanced by learned single judge are that the petitioner was originally appointed vide order dated 19.03.2021 for a tenure that extended upto his attaining 60 years. The term of that appointment letter reads as below:

"दिनांक 09.03.2021 को आहूत चयन समिति की बैठक में की गई संस्तुति के कम में चयनोपरान्त श्री राज्यपाल महोदय निम्नलिखित अधिकारियों को कार्यभार ग्रहण करने की तिथि से संतोषजनक प्रदर्शन के अधीन अधिवर्षता आयु 60 वर्ष तक की संविदा अवधि तक जिला सैनिक कल्याण एवं पुनर्वास अधिकारी के पद पर स्तम्भ-4 में अंकित जनपद में तैनात करने के आदेश प्रदान करते हैं"

4. The above appointment letter was issued under the then existing guidelines issued by the Central Government dated 26.12.2023. Clause 3(d) of the said guidelines reads as below:

"3. Eligibility Criteria

The eligibility criteria for employment of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Boards and Additional Director, Sainik Welfare-cum-Zila Sainik Welfare Officers will be as follows:

(a).....

(b).....

(c).....

(d) Services of appointed ZSWOs may continue upto 60 yers of age, subjet to the satisfactory performance of the concerned officer. The tenure of Director, Sainik welfre-cum-Secretary, RSB will be for a period of 5 years."

5. Further reference has been made to Appendix 'B' described as the Agreement No. II. Clause 10 of the said agreement form reads as below:

"10. Notwithstanding anything herein before contained the party of the first part shall unless otherwise decided by the Government be entitled to receive in whole or in part as may be authorised by the Government the benefits of any improvement that may be sanctioned by the Government subsequent to the date of these presents in the terms and conditions of service of members of the branch of the public service to which he may for the time being belong and the decision of the Government in respect of such improvement in the terms and conditions of service of the party of the first part shall operate so as to modify to that extent the provisions of these presents."

6. In such facts it has been claimed that the appointment letter issued to the petitioner has to be read alongwith Clause 10 of the Agreement Form No.II. To the extent Clause 10 thereof overrides any other clause of the said form and makes the petitioner entitled to receive benefits of any improvement (that may be sanctioned), subsequent to his appointment, the

petitioner is entitled to the benefit of Clause 3(d) of the latest guidelines dated 13.08.2024. For ready reference the relevant extract of the said guideline is quoted below:

"1. In super session of all the previous letters on the subject, the Competent Authority has approved the following guidelines on appointment of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Boards (RSBs) and Additional Director, Sainik Welfare-cum-Zila Sainik Welfare Officers (ZSWOs) and pay fixation.

2.....

3. Eligibility Criteria-

The eligibility criteria for selection and employment of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Boards and Additional Direction Sainik Welfare-cum-Zila Sainik Welfare officers will be as follows:

(a).....

(b).....

(c) The age of the candidate shall not be more than 59 years on the crucial date for the post of Zila Sainik Welfare Officer (SWOs) and not more than 60 years on the crucial date for the post of Director, Sainik Welfare-cum-Secretary Rajya Sainik Board.

(d) The tenure of Director, Sainik Welfare-cum-Secretary, Rajya Sainik Board/ZSWO will be for a period of five years or 65 years of age whichever is earlier, subject to the satisfactory performance of the concerned officer.

(e) 1st January of any vacancy year will be the crucial date for reckoning the eligibility of the applicants for all the posts covered under these guidelines."

7. Relying on Clause 3(d) it has been strenuously urged that benefit granted under the latest guidelines would equally apply to the original petitioner. His work having remained satisfactory he is entitled in law to be continued on the post as ZSWO, for another set of five years or till he attains the age of 65 years. To the extent the learned single judge has ignored the

clear and direct implication of the said clause and to the extent the learned single judge may not have noticed that the said benefit would apply to the petitioner by virtue of Clause 10 of the Agreement Form No.2, a clear error of law has crept in the order of the learned single judge. To bolster the above submission he would state that the exclusion of Clause 3(d) of the latest guideline dated 13.08.2024 would apply only with respect to fresh appointments where a ZSWO may not be permitted to work for more than five years.

8. On the other hand learned counsel for the Union would contend that the order of learned single judge does not suffer from any error of law. The latest guidelines dated 13.08.2024 have to be read holistically. To the extent the petitioner may have crossed the age of eligibility and further to the extent the petitioner may have worked for five years till he completes his term on 21.03.2026, there is no error in the order of the learned single judge.

9. Having heard learned counsel for the parties and having perused the record, we find that the learned single judge has taken note of the submissions advanced by the parties and has also taken note of Appendix 'B' Agreement Form No.II and found that the same is of no aid or assistance to the petitioner wherein benefits granted under the revised/latest guidelines are subject to the terms and conditions mentioned in the new guidelines. Learned single judge has also taken note of the fact that there is no challenge raised to the Clause 3(d) of the latest guidelines dated 13.08.2024.

10. Besides the above reason with which we find no error we also note that the revised/latest guidelines were issued in supersession of earlier guidelines. Those have to be read in entirety before any inference may be drawn as to the benefit claimed by the original petitioner. Under the revised guidelines, a clear prescription of age of eligibility arises under Clause 3(c) readwith (e). Thus, on the 'crucial date' which would be 1st January of the vacancy year, candidate for the post of ZSWO should be less than 59 years of age. Seen in that light the original petitioner who is an incumbent to the post of ZSWO, is clearly more than 59 years of age on 1st January, 2026. Therefore, by way of a direct consequence, the petitioner is

ineligible to seek appointment as ZSWO under the revised/latest guidelines dated 13.08.2024. Such fact is established on the own admission of the petitioner that he is set to attain the age of 60 years on 21.03.2026.

11. We also note that there is absolutely no challenge to Clause 3(c) and 3(e) of the revised/latest guidelines dated 30.08.2024.

12. There is also no provision whatsoever under the revised/latest guidelines dated 30.08.2024 providing for extension of term of the existing ZSWOs as may allow the petitioner to raise any claim in that regard. Further, on the own strength of Clause 3(d) of the revised/latest guidelines dated 13.08.2024, we are unable to accept the submissions advanced by learned counsel for the petitioner inasmuch as the said clause provides for a fixed term of maximum five years or 65 years, 'whichever is lower'. To that extent the scheme appears to not allow any ZSWO to continue to hold that post for more than 5 years. Here, the original petitioner has held the post since 2021. He would complete that tenure of 5 years or thereabout, soon.

12. In view of the above, we find no error in the order of the learned single judge. The appeal fails and is **dismissed**.

13. No order as to costs.

March 19, 2026

Deepika

(Vivek Saran,J.) (Saumitra Dayal Singh,J.)