



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 19.02.2026

Judgment Delivered on: 29.05.2026

+ **LPA 77/2026 & CM APPL. 11112/2026**

BRIG RETD SANDEEP KALA

.....Appellant

versus

**DIRECTOR GENERAL OF RESETTLEMENT
& ORS.**

.....Respondents

Advocates who appeared in this case

For the Appellant : Mr. Jai Sahai Endlaw, Advocate.

For the Respondents : Ms. Radhika Bishwajit Dubey, CGSC
with Ms. Gurleen Kaur Waraich, Mr.
Kritarth Upadhyay and Mr. Vivek
Sharma, Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

CAV 86/2026

1. The learned Counsel for Respondent No. 1 / Caveator has entered appearance.
2. Caveat stands discharged.



CM APPL. 11113/2026

3. Exemption allowed, subject to all just exceptions.
4. The Application stands disposed of.

CM APPL. 11114/2026 & CM APPL. 11115/2026

5. These Applications are filed on behalf of the Appellant seeking condonation of delay of 4 days in filing and 9 days in re-filing the present Appeal.
6. Having heard the learned Counsel for the Parties and perused the averments made in the Applications, we are satisfied that the delay is sufficiently been explained.
7. Accordingly, the Applications are allowed and the delay of 4 days in filing and 9 days in re-filing the present Appeals is hereby condoned.
8. The Applications stand disposed of.

LPA 77/2026

INTRODUCTION

9. This is a Letters Patent Appeal under Clause X of the Letters Patent of the High Court of Judicature at Lahore as applicable to this Court against judgment dated 23.12.2025 (“**Impugned Judgment**”) passed by this Court in W.P.(C) No. 10830/2025 (“**Writ Petition**”) titled as ‘*Brig. (Retd.) Sandeep Kala v. Directorate General of Resettlement & Ors.*’.

FACTUAL MATRIX

10. The Appellant, Brigadier (Retired) Sandeep Kala, is a veteran of the Indian Army. The Appellant has had a long and distinguished career with the Indian Army and retired on 31.05.2016 after 34 years of service.



11. Respondent No. 1, i.e., the Directorate General of Resettlement operates under the Department of Ex- Servicemen (“**ESM**”) Welfare, which is part of the Ministry of Defence, Government of India. Respondent No. 1 is vested with the primary mandate of formulating and implementing policies aimed at the welfare, rehabilitation, and resettlement of ESM, war widows, dependents of defence personnel.

12. Respondent No. 2, i.e., *Coal India Limited* (“**CIL**”), is a state-owned Public Sector Undertaking under the control of the Ministry of Coal. Respondent No. 3, i.e., Ministry of Coal, Government of India, which has the overall responsibility of determining policies and strategies in respect of exploration and development of coal and lignite reserves, sanctioning of important projects of high value and for deciding all related issues.

13. The Appellant submitted an application dated 22.07.2016 under the Coal India Limited Subsidiary under the Coal Loading and Transportation Scheme, 1979 (“**Scheme**”) as per the Memorandum of Understanding dated 12.12.2013 (“**2013 MoU**”). Respondent No. 1 issued a letter dated 01.10.2018 indicating the Appellant’s likely selection for sponsorship with the *Mahanadi Coalfields Limited* (“**MCL**”) and sought confirmation of the Appellant’s willingness. On 09.10.2018, Respondent No. 1 directed the Appellant to submit the requisite documents for screening before the Board of Officers.

14. Pursuant to the Appellant submitting the requisite documents, Respondent No. 1 on 23.10.2018 informed the Appellant of final selection and directed the Appellant and other ESM Officers to conduct a feasibility study at Talcher Coalfields, MCL, Odisha. The Appellant conducted site



visits and feasibility study with fellow ESM Officers at Talcher Coalfields, MCL, Odisha on 09.11.2018 and 10.11.2018. The Appellant submitted Feasibility Study Report dated 10.11.2018 to Respondent No. 1. On 09.01.2019, ESM Company, *Salute India Logistics Pvt. Ltd.* (“**ESM Company**”) was formally incorporated with the Ministry of Corporate Affairs.

15. Respondent No. 1 on 15.01.2019 called upon the Appellant for final sponsorship and original document verification. On 18.01.2019, the Appellant appeared before the Board of Officers and completed the final step before award of work.

16. *Vide* letter dated 31.01.2019, Major Gurtej Singh (Retd.) (“**Maj. G. Singh**”) was dis-empanelled by Respondent No. 1. Respondent No. 1 inducted Colonel Yogendra Mohan Sharma (Retd.) to replace Maj. G. Singh on 07.02.2019. Maj. G. Singh filed a CWP 5225/2019 titled as ‘*Major Gurtej Singh v. Union of India and Others*’ challenging the letter dated 31.01.2019 issued by Respondent No. 1 for the Punjab & Haryana High Court at Chandigarh (“**P&H High Court**”). *Vide* order dated 27.02.2019, the P&H High Court stayed the dis-empanelment of Maj. G. Singh.

17. Respondent No. 1 placed the Appellant’s ESM Company under ‘Held in Abeyance’ (“**HIA**”) on 20.03.2019. The Appellant on 17.06.2019 protested against the HIA status and requested allocation in the next available vacancy. Respondent No. 1 published the Waiting List dated 06.01.2020 (“**Waiting List**”) with the Appellant at Serial No. 3, confirming continued eligibility. Respondent No. 2 on 26.06.2020 and 30.06.2020 unilaterally exited the 2013 MoU.



18. This Court *vide* order dated 21.07.2020 in W.P.(C) No. 4384/2020 titled as ‘*Col. Laxmi Narayan (Retd.) & Ors. v. Coal India Limited & Ors.*’ granted interim relief to protect the eligibility of similarly placed ESM Officers. This Court further directed the Respondents to resolve the existing issues amicably and take steps for renewal of the 2013 MoU *vide* order dated 21.09.2020. Respondent No. 1 issued letters dated 20.06.2022 confirming continued protection of age / seniority for waitlisted ESM Officers.

19. On 06.12.2024, the Appellant was invited by Respondent No. 1 to a stakeholder meeting on a revised Memorandum of Understanding (“**MoU**”). The Appellant participated in the stakeholder meeting and raised concerns over the protection of eligibility.

20. This Court *vide* order dated 09.04.2025 directed Respondent No. 1 to place the final Memorandum of Understanding on record. The same was placed on record by Respondent No. 2. The Appellant was informed in the meeting with Respondent No. 1 on 16.07.2025 that overage ESM are being excluded.

21. The Appellant preferred the Writ Petition before the learned Single Judge which was dismissed *vide* the Impugned Judgment. Accordingly, the Appellant aggrieved by the Impugned Judgment filed the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

22. Mr. Jai Sahai Endlaw, learned Counsel for the Appellant has made the following submissions:

22.1. The learned Single Judge failed to appreciate that the case of the Appellant stands on a footing distinct from that of the other



ESM Officers before the Court, inasmuch as the Appellant had already participated in the sponsorship process and only the formal issuance of a letter by Respondent No. 1 remained pending, before the Appellant was inequitably placed under HIA on account of third-party litigation. But for such placement under HIA, the Appellant would have been allotted an ESM Company.

22.2. The learned Single Judge further failed to consider that the eligibility requirement of 60 years of age is inapplicable to an ESM Officer who had initiated the sponsorship process while fully eligible but crossed the age threshold before the final allotment of the ESM Company. The Appellant had placed on record material before the learned Single Judge showing that Major General (Retd.) Bhupinder Singh was allotted an ESM Company despite having crossed the age of 62 years, as applicable, by the date of sponsorship. The record of Respondent No. 1 therefore demonstrates that, once the process of sponsorship is initiated, there is no absolute prohibition against allotment of an ESM Company to a candidate who has crossed the age of 60/62 years, as applicable, by the stage of final allotment.

22.3. The learned Single Judge also failed to note that, in the present case, the process of sponsorship had already been initiated by Respondent No. 1 on 01.10.2018 and that, out of the five prescribed stages, the Appellant had completed all five, with only the final and formal approval of Respondent No. 1



remaining pending when the Appellant was placed under HIA. In these circumstances, the finding of the learned Single Judge that the Appellant had, in any event, become ineligible under the Scheme upon crossing the age of 60 years is erroneous, since that requirement was not applicable to the Appellant in the facts of the present case.

22.4. The learned Single Judge further erred in holding that no work had been allotted to any other ESM Companies. In fact, after the Appellant was placed under HIA, the vacancy in respect of the Appellant's ESM Company was allotted to another group of ESMs operating an ESM Company. The correctness of the Appellant's grievance was not examined in its proper perspective, particularly when the Appellant had been placed under HIA on account of third-party litigation initiated by Maj. G. Singh, in which the Appellant was not even a party.

22.5. The learned Single Judge did not consider the legal consequences of the Appellant having been placed under HIA on his eligibility for allotment under the 2013 MoU executed between Respondent Nos. 1 and 2. The Appellant's placement under HIA necessarily implied protection of his eligibility and seniority under the 2013 MoU. This is evident from the fact that Colonel Yogendra Mohan Sharma, (Retd.) who was similarly placed under HIA, had already crossed the age of 60 years at the time he was placed on the Waiting List by Respondent No. 1. This position is further reinforced by the assurances extended by Respondent No. 1 to all waitlisted ESM



Officers, including the Appellant, that their seniority and eligibility would remain protected, and by the fact that the Appellant continued to be recognized as a stakeholder in the revised MoU as late as December, 2024.

- 22.6. The learned Single Judge also failed to appreciate that the unilateral termination of the 2013 MoU by Respondent No. 2 on 30.06.2020, followed by prolonged negotiations with Respondent No. 1 over a period of five years culminating in a revised MoU, resulted in the creation of a distinct class of ESM Officers who have been subjected to discriminatory treatment. This class alone has been excluded from the benefit of the rehabilitation and resettlement measures specifically designed by Respondent No. 1 for such officers.
- 22.7. The prolonged inter-departmental and ministerial deliberations between Respondent Nos. 1 and 2 gave rise to a sub-class of ESM Officers who, during the period from 2020 to 2025, crossed the prescribed age limits of 60/62 years, depending on rank, thereby being rendered ineligible under a Scheme that remained under consideration throughout that period. Neither was the Appellant extended the benefit of any alternative scheme, nor was the Appellant's seniority and eligibility protected under the original scheme. This, it is submitted, amounts to a violation of the Appellant's fundamental right to equality and equal treatment under Article 14 of the Constitution.



- 22.8. The Appellant's application had already progressed to an advanced stage of sponsorship, and the Appellant had been formally placed under HIA pending resolution between the authorities. However, the Appellant was ultimately rendered ineligible under the newly proposed Scheme placed before this Court by the Respondents. Such exclusion effectively extinguishes the Appellant's accrued rights and legitimate expectations without due process, thereby offending the doctrines of promissory estoppel and non-arbitrariness. Such treatment violates the Appellant's right to equality before the law and equal protection of the laws under Article 14 of the Constitution and also fails the test of fairness embedded in Article 21, which guarantees dignity, procedural fairness, and protection against arbitrary State action.
- 22.9. The existence of the Scheme, coupled with the mandate of Respondent No. 1 to ensure the effective rehabilitation and resettlement of ESM personnel, gave rise to a legitimate expectation on the part of the Appellant that, upon retirement from service, the Appellant would be entitled to rehabilitation and attendant benefits under such welfare measures for ESM personnel. The denial of that legitimate expectation, and the resulting exclusion of the Appellant from the benefits of the Scheme despite having been eligible at the relevant time, constitutes discrimination and violates the Appellant's fundamental rights under Article 14 of the Constitution.



22.10. The learned Single Judge also failed to consider that the actions of the Respondents are contrary to the Directive Principles of State Policy embodied in Articles 38, 39 and 41 of the Constitution, which require the State to secure social justice, equal opportunity, and assistance to citizens, particularly those who have rendered military service and are in need of rehabilitation. The Scheme was a beneficial policy specifically intended to aid the resettlement of retired members of the Armed Forces.

22.11. Accordingly, the present Appeal deserves to be allowed and the Impugned Judgment is liable to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

23. Ms. Radhika Bishwajit Dubey, learned CGSC for the Respondents made the following submissions:

- 23.1. In terms of the Guidelines on Formation and Running of ESM Coal Transport Companies, the Appellant had crossed the prescribed age of eligibility as on 20.06.2020. Consequently, the Appellant ceased to be entitled to sponsorship under the Scheme,
- 23.2. Admittedly, the Appellant was never sponsored by Respondent No. 1. Mere registration does not confer any vested right, as sponsorship constitutes a distinct stage contingent upon continued fulfillment of the eligibility criteria.
- 23.3. No exception or relaxation was ever promised or extended to the Appellant by Respondent No. 1. The Appellant is governed by the same policy parameters as all other ESM personnel and cannot, therefore, claim any special dispensation.



- 23.4. Maj. G. Singh, one of the Directors of the proposed ESM Company of which the Appellant was also a Director, was dis-empaneled upon receipt of complaints from the other Directors, including the Appellant, on the ground of non-payment of the initial capital contribution.
- 23.5. Maj. G. Singh challenged his dis-empanelment before the P&H High Court and obtained an interim order dated 27.02.2019 staying the said dis-empanelment. As the said matter remains *sub judice*, the proposed ESM Company could not be sponsored.
- 23.6. The Appellant had availed re-employment in the Indian Army after retirement. Despite being aware of both his ineligibility and the pendency of the proceedings, the Appellant did not approach this Court with due promptitude. The Appellant's belated attempt to seek age relaxation, which is neither contemplated by nor permissible under the Scheme, is therefore unsustainable.
- 23.7. Accordingly, it is submitted that the present Appeal is liable to be dismissed and the Impugned Judgment deserves to be upheld.

ANALYSIS AND FINDINGS

24. We have heard the learned Counsel for the Parties and considered the Impugned Judgment as well as the material available on record.
25. The principal questions that arises for consideration is whether the learned Single Judge was justified in dismissing the Writ Petition preferred by the Appellant, and whether the Appellant, notwithstanding having crossed the prescribed age limit prior to the issuance of a formal sponsorship letter, is entitled to allotment of an ESM Company under the Scheme.



26. The Appellant is a retired Brigadier who served in the Indian Army for 34 years and retired on 31.05.2016. The Appellant submitted an application under the Scheme on 22.07.2016. The record indicates that Respondent No. 1 had initiated the sponsorship process and that, by 18.01.2019, the Appellant had completed all five prescribed stages. However, on 20.03.2019, the Appellant's ESM Company was placed under HIA on account of a stay order dated 27.02.2019 obtained by a co-Director of the proposed ESM Company from the Punjab & Haryana High Court. It is not in dispute that the Appellant had no connection with the said litigation and was not impleaded as a party therein.

27. Before dealing with the rival submissions, it is apposite to note that the Scheme is a welfare measure intended to facilitate the rehabilitation and resettlement of retired Army personnel. However, the beneficial character of the Scheme cannot be construed to mean that its eligibility conditions may be relaxed or disregarded. Even a welfare measure must be administered in accordance with its prescribed terms and conditions. Therefore, it is not permissible to rewrite or dilute the conditions of the Scheme, but the only issue that can be examined is whether the authorities have acted in conformity the Scheme. The mere fact that the Scheme is a welfare measure does not entitle the Appellant to claim continuation of seniority under the Scheme pursuant to the revised MoU. The discontinuation of the 2013 MoU was a matter of policy and, since no vested rights had accrued to the Appellant solely by reason of his placement in the Waiting List, such discontinuation cannot be held to be arbitrary, unjust, or prejudicial to his legal interests.

28. It was submitted on behalf of the Appellant that by 18.01.2019 the



Appellant had completed every substantive stage of the sponsorship process and that only the formal issuance of a letter by Respondent No. 1 remained. It is settled law that, unless and until formal sponsorship is granted by Respondent No. 1, no enforceable right accrues in favour of an applicant under the Scheme. It is an admitted position that the Appellant was never formally sponsored by Respondent No. 1. Completion of the preliminary or intermediate stages of the sponsorship process, however advanced, does not amount to sponsorship and does not vest any right to allotment under the Scheme.

29. Sponsorship is a distinct and independent stage, and eligibility must subsist on the date on which such sponsorship is granted. Since the Appellant had crossed the prescribed age limit before any sponsorship was accorded, the Appellant ceased to be eligible under the terms of the Scheme. The HIA status imposed on 20.03.2019 was merely an administrative measure intended to preserve the status *quo* pending resolution of the third-party litigation before the P&H High Court in CWP 5225/2019.

30. In our considered view, the contention of the Respondents that the HIA status, though occasioned by third-party litigation, cannot operate as a legal fiction to arrest the Appellant's age or extend eligibility beyond what the Scheme permits, is well founded. No provision of the Scheme, nor any order of a competent authority, conferred upon the Appellant any relaxation of the prescribed age criterion. The HIA status was only an administrative arrangement to maintain the status *quo* in light of the pending litigation and cannot be construed either as a guarantee of allotment or as a suspension of the eligibility conditions prescribed under the Scheme.

31. This Court can enforce only existing legal rights; it cannot create rights where none have accrued. Since no right had crystallized in favour of the



Appellant, no direction can be issued to Respondent No. 1 to treat the Appellant as eligible under the revised Scheme pursuant to the revised MoU.

32. As regards the reliance placed by the Appellant upon the case of Major General (Retd.) Bhupinder Singh, we are of the view that the one-time relaxation sought by the Appellant cannot be claimed as a matter of right. Any previous relaxation that may have been granted by Respondent No. 1 was in the peculiar facts and circumstances of that case and cannot constitute a binding precedent.

33. It is well settled that no person can claim equality in illegality. Therefore, even assuming that Respondent No. 1 had, in a particular case, acted contrary to the prescribed age criterion, such action cannot furnish a ground to compel similar treatment in the present case. No writ in the nature of *mandamus* can be issued directing the grant of a relaxation contrary to the terms of the Scheme.

34. We also find no merit in the contention advanced on behalf of the Appellant that the assurances allegedly extended by Respondent No. 1 between 2020 and 2024 created any legally enforceable legitimate expectation of allotment. The inclusion of the Appellant's name in the Waiting List and the letters dated 20.06.2022 assuring protection of seniority were general communications addressed to all waitlisted ESM Officers and cannot be construed as individual promises of allotment *dehors* the eligibility conditions prescribed under the Scheme.

35. Likewise, the invitation extended to the Appellant to attend the stakeholder meeting held on 06.12.2024 for discussion of the revised MoU cannot be treated as a representation that the Appellant would be allotted an ESM Company irrespective of eligibility. Legitimate expectation must be



founded upon a clear, unambiguous, and specific representation, none of which has been established in the present case. In the absence of any such promise or assurance, the doctrine of promissory estoppel has no application to the facts of the present case. In any event, the principle of promissory estoppel cannot be invoked to obtain relief beyond the power and authority of Respondent No. 1.

36. The submission that the Appellant forms part of a distinct class of ESM Officers, who have been subjected to discriminatory treatment, is equally untenable. The ESM Officers placed in the Waiting List had no enforceable entitlement to coal transportation contracts under the 2013 MoU. Consequently, the exclusion of the Appellant from the revised MoU does not result in the creation of any separate or distinct class among ESM Officers. The question of discrimination or unequal treatment therefore does not arise, since all ESM Officers on the Waiting List stood on the same footing, none having acquired any vested right to allotment under the 2013 MoU. Furthermore, Respondent No. 1 has no authority to grant relaxations to particular categories of ESM Officers, thereby excluding any scope for arbitrary exercise of discretionary power.

37. We are further of the view that the Appellant's prolonged inaction also operates against the grant of relief. As rightly observed by the learned Single Judge, no prejudice can be said to have been caused to the Appellant. The chronology of events on record demonstrates that, when Respondent No. 2 withdrew from the 2013 MoU on 26.06.2020, the Appellant had already crossed the prescribed age of 60 years, the Appellant's date of birth being 16.05.1960. During the period from 20.03.2019, when the Appellant's ESM Company was placed under HIA until 26.06.2020, when Respondent



No. 2 exited the 2013 MoU, no work was admittedly allocated to any ESM Officer. The last allocation in terms of the seniority rules had been made in 2018. In these circumstances, even if Respondent No. 2 had not withdrawn from the 2013 MoU, the Appellant would, in any event, have become ineligible under the Scheme upon crossing the age of 60 years prior to the rescission of the 2013 MoU by Respondent No. 2.

38. In view of the foregoing discussion, no interference with the Impugned Judgment is warranted. The learned Single Judge correctly appreciated both the factual matrix and the legal position and committed no error in dismissing the Writ Petition. The Appellant, having crossed the prescribed age limit prior to formal sponsorship and no relaxation of the age criterion having ever been promised or extended, cannot claim any entitlement to allotment under the Scheme.

39. The Impugned Judgment dated 23.12.2025 is accordingly upheld. The present Appeal, along with the pending Application, stands dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 29, 2026

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