

\$~4

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

+ **W.P.(C) 1126/2016 & CMs No.4941-42/2016**

COL MANMOHAN SOOD Petitioner

Through : Mr. S.S. Pandey with
Mr. H.S. Tiwari, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Sanjay Jain, ASG with
Mr. Ankur Chibber, Mr. Sarfaraz Ahmad,
Ms. Ruchi Jain, Ms. Shreya Sinha and
Ms. Rhea Verma, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

05.04.2016

1. The present petition has been filed by the petitioner praying *inter alia* for quashing the order dated 21.1.2016 passed by the Armed Forces Tribunal (AFT) in OA No.91/2016 filed by him challenging the order dated 1.1.2016 issued by the Ministry of Defence, Govt. of India, rejecting his statutory complaint dated 26.6.2014 against Non-Empanelment for Promotion to the rank of Brigadier by No.2 Selection Board held in March, 2014.
2. Vide order dated 21.1.2016 passed by the AFT, the interim relief prayed for by the petitioner calling upon the respondents to keep one vacancy in the rank of Brigadier of JAG department reserved for him, was turned down. Aggrieved by the said order, the petitioner has filed the present petition.

3. We are informed that the main petition being OA No.91/2016, is listed before the AFT on 9.5.2016. We are also informed that the petitioner shall superannuate on 30.4.2017.

4. Having perused the records handed over by learned counsel for the respondents, which reveal that the communication dated 2.11.2015 referred to by the petitioner in the present petition, was not formally communicated to the petitioner and instead, his statutory complaint was rejected, vide order dated 1.1.2016, we are not inclined to allow the present petition by issuing any direction to the respondents to keep one vacancy available for the post of Brigadier of JAG department. However, having regard to the fact that the petitioner shall superannuate in April, 2017 and further, taking note of the submission made by counsel for the respondents that they shall file their counter affidavit within this week itself, with a copy furnished to the other side, the present petition is disposed of with a request made to the AFT, Principal Bench, New Delhi, to try and expedite the decision in OA No.91/2016, preferably within a period of three months from the date of conclusion of the hearing. However, any promotion made by the respondents in the meantime, shall be subject to the outcome of OA No.91/2016.

5. The writ petition is disposed of, along with the pending applications.

HIMA KOHLI, J

SUNIL GAUR, J

APRIL 05, 2016/sk