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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 8972/2016 & CM Nos. 36440-36441/2016
SUN DINESH SINGH TOMAR Petitioner
Through: Mr.S.S. Pandey & Mr.H.S. Tiwari,
Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: Ms.Anjana Gosain, Adv.

CORAM:
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **30.09.2016**
CM No.36441/2016 (for exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 8972/2016 & CM No. 36440/2016 (for interim directions)

In this writ petition, the petitioner has *inter alia* sought a writ of mandamus directing the respondents to issue necessary orders for inclusion of the petitioner in the UN Mission of Grenadiers, as proposed by his Commanding Officer.

The petitioner has also sought a writ of certiorari for quashing an order dated 07.05.2016 whereby the representation made by the petitioner in

this regard has been rejected.

The petitioner claims that he was enrolled in the Army as a Soldier on 25.02.1991 and subsequently posted to 9 Grenadiers. In 2012, the unit of the petitioner got earmarked for UN Mission which was scheduled to leave some time in the month of March/April 2014. The petitioner was however, not included as he had to undergo punishment for unauthorised leave. The petitioner filed a statutory complaint which was examined and by an order dated 20.03.2014, Lieutenant General D.S. Hooda, GOC, 16 Corps opined that the disciplinary proceedings had been initiated in contravention of the provisions of Army Act and the rules framed thereunder. It is contended by the petitioner that he is now entitled to be included in the UN Mission.

The punishment has, however, not been set aside by the competent authority. Unfortunately, the writ Court cannot sit in appeal over every decision of the authorities. The selection of Grenadiers for the UN Mission is essentially an administrative decision. On behalf of the respondents it is pointed out that out of 22 Battalions of the Regiment, only 5 Battalions got an opportunity to be nominated for the United Nations Mission after independence. Therefore, most of the JOCs/OR of the Regiment did not ever get a chance to avail United Nations Mission tenure. It was pointed out

that United Nations Mission tenure was a rare opportunity availed by only a few JCOs/OR by chance and it could not be claimed as a matter of right, in the manner in which entitlements which are generally guaranteed by rules of law framed for the Armed Forces, can be claimed.

The concerned Brigadier has very rightly asserted that the petitioner had no vested right to be deputed on the United Nations Mission tenure. In the absence of any right, legal, statutory or otherwise, there is no question of interference of this Court, in exercise of jurisdiction under Article 226 of the Constitution of India.

The petition as well as application are, therefore, dismissed.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

SEPTEMBER 30, 2016

gm

