

\$~Suppl.-17

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

+ W.P. (C) 3248/2021

MAJ DESAI PRAJAKTA HEMANTPetitioner

Through: Mr. Rajiv Manglik, Advocate

Versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Sandeep Bajaj, Sr. Panel Counsel
with Mr. Asav Rajan, Advocates for
R-1.
Col. Sachidananda Prabhu, MS Legal
Army.

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Date of Decision: 12th March, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL. 9921/2021

Allowed, subject to just exceptions.

W.P. (C) 3248/2021

1. Present writ petition has been filed challenging the interim order dated 26th February 2021 passed by the Armed Forces Tribunal (for short "AFT") in OA No. 358/2021 and for staying the release of the Petitioner on 18th March, 2021 till the pendency of the abovementioned OA.

2. Learned counsel for the Petitioner states that the Petitioner joined the services of respondents as Short Commission Officer in the Indian Army on 11th March, 2011 and was granted the seniority w.e.f. 19th October, 2011. He further states that the Petitioner was considered for grant of permanent commission and/or extension and the result was published vide letter No. 11th January, 2021 wherein the Petitioner was neither granted the permanent commission nor the extension of service and was directed to be released from service on 18th March, 2021.

3. Learned counsel for the Petitioner states that the Petitioner had been graded 'Outstanding', i.e. '9' marks even by the same CO in the past and thus the drop of performance in next ACR from 01st November, 2016 to 31st October, 2017 to '7' points and '6' in Star qualities was only due to the appeal of the Petitioner against the CO for taking a lenient view against the Petitioner's harasser in a sexual harassment case.

4. He, however, admits that respondents have disposed of the Petitioner's statutory complaint vide letter dated 29th July, 2019 without proper application of mind stating that the Petitioner's ACR was well corroborated and consistent.

5. Learned counsel for the Petitioner submits that learned AFT refused to grant the stay on release of the Petitioner primarily due to delay in approaching the learned AFT without considering the fact that the regional bench of learned AFT having territorial jurisdiction was not functional and the Petitioner had to approach the Delhi Bench.

6. A perusal of the paper book reveals that the Petitioner's case for continuation of service was considered by the Selection Board but she was

neither recommended for grant of permanent commission nor for extension on account of certain adverse entries in the ACRs for the period in question.

7. Petitioner's statutory complaint dated 06th August, 2019 against the adverse entries in the ACRs has been rejected vide order dated 29th July, 2019 passed in the name of the President of India.

8. Keeping in view the adverse entries in the ACR, this Court is of the view that the Petitioner is not entitled to any relief pending final disposal of the OA by the AFT.

9. At this stage, learned counsel for the Petitioner prays that the hearing and disposal of the petitioner's appeal before AFT be expedited. This Court is confident that in the event the Petitioner files an application for early hearing, AFT would certainly try to dispose of the matter as expeditiously as possible.

10. With the aforesaid liberty, present writ petition stands disposed of.

MANMOHAN, J

ASHA MENON, J

MARCH 12, 2021

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