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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 16.08.2021

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W.P.(C) 8489/2021 & C.M.Nos.26255-26257/2021

UPENDRA PRAKASH BALODI Petitioner

Through Mr.Sumit Teterwal,
Mr.Rajkumar Maurya,
Mr.Vijayant Sharma, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through Mr.Chetan Sharma, ASG with
Mr.Anil Soni, CGSC and
Mr.Amit Gupta, GP.
Mr.Sudhanshu Kumar, JAG of
SSB.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

The petition has been heard by way of video conferencing.

CMs 26255-56/2021(exemption)

Allowed, subject to all just exceptions.

Accordingly, the applications are disposed of.

WP(C) 8489/2021 & CM 26257/2021

1. Present writ petition has been filed challenging the order dated 29th June, 2021 passed by the General Force Court whereby the petitioner has been found guilty of twelve charges and order dated 30th

June, 2021 whereby the General Force Court has imposed the punishment of dismissal from service and in addition sentenced the petitioner to undergo rigorous imprisonment of eighteen months.

2. At the outset, learned counsel for the respondents raises a preliminary objection with regard to the maintainability of the present writ petition on the ground that it is premature as the petitioner has not exhausted its statutory remedy by filing a petition to the Central Government/ Director-General/prescribed Officer superior in Command to the one who had confirmed the finding or sentence of the Force Court. In support of his submission, he relies upon Section 131(2) of The Sashastra Seema Bal Act, 2007 (hereinafter referred to as the 'Act'), which reads as under:

“131. Petition against order, finding or sentence of Force Court.-

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(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Force Court which has confirmed, may present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.”

3. Learned counsel for the petitioner admits that till date the petitioner had not exhausted the aforesaid statutory remedy.

4. Accordingly, the present writ petition and pending applications are disposed of with a direction to the petitioner to file a petition under Section 131(2) of the Act within a week. In the event, such a petition is filed within the aforesaid period, the same shall be disposed of by way of a reasoned order in accordance with law within three weeks. Till the disposal of the petitioner's petition under Section 131(2) of the

Act, the arrangement made by the learned predecessor Division Bench vide order dated 10th August, 2021 in the earlier writ petition filed by the petitioner being WP(C) No.1977/2020 shall continue.

5. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

**AUGUST 16, 2021
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नित्यमेव जयते