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

+ **W.P.(C) 3280/2022**

WG CDR RAVI KHANDELWAL AF 29434 F MED

..... Petitioner

Through Mr.Tarun Sharma with Ms.Akanksha
Kapoor and Ms.Kshiti Nim,
Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Ms. S Bushra Kazim for Mr. Harish
Vaidyanathan Shankar, CGSC

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Date of Decision: 23rd February, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No.9540/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.3280/2022 & C.M.No.9539/2022

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking modification of the order dated 10th November, 2021 passed by Armed Forces Tribunal, Principal Bench in O.A. No.2393 of 2021. The Petitioner in effect seeks stay on the



release order dated 28th September 2021 which directs the Petitioner's release from service with effect from the 24th April, 2022.

3. Learned counsel for the Petitioner states that the Petitioner was inducted as a Short Service Commission Medical officer on 25th April, 2008. He states that the Supreme Court in Writ Petition (Civil) No. 1480/2020 titled ***Cdr T Rajkumar Versus Union Of India & Another*** has directed the Armed Forces Tribunal, Principal Bench, Delhi to consider the issue relating to the grant of Permanent Commission in view of the existing vacancies in the Army Medical Corps.

4. He points out that the Respondents have overlooked the substantial number of existing vacancies and issued a release order dated 28th September, 2021 whereby the Petitioner will be released from service w.e.f. the afternoon of 24th April, 2022.

5. This Court finds that the AFT in the impugned order has held that the release of the Petitioner shall be subject to the final decision in the OA. This Court is of the view that the Tribunal has adequate power to mould the relief as well as balance the equities at final stage.

6. Further, it is settled law that the jurisdiction of a writ Court under Article 226 of the Constitution is vastly different and distinct from that of an Appellate Court. The Writ Court while examining the judgment/order passed by the Tribunal, will exercise the power of judicial review which means that the Court shall examine the decision-making process and interfere only for correcting errors of jurisdiction or errors apparent on the face of record or if the Tribunal acts illegally. (See: ***Hari Vishnu Kamath vs. Syed Ahmad Ishaque and Ors.***, (1955) 1 SCR 1104; ***Surya Dev Rai vs. Ram Chander Rai & Ors.*** (2003) 6 SCC 675 and ***Rajendra Diwan vs.***



Pradeep Kumar Ranibala and Anr. (2019) 20 SCC 143.)

7. Consequently, the impugned order calls for no interference in writ jurisdiction. Accordingly, the present writ petition along with pending application is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 23, 2022

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