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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 24th March, 2023*

+ W.P.(C) 3692/2023, CM APPL.14276/2023

JC-843425N SUB (CLK) SANJAY RATHORE Petitioner
Through: Mr. O.N. Sharma and Mr. Vijay
Pratap Singh, Advocates.

versus

UNION OF INDIA AND ORS Respondents
Through: Ms. Amrita Prakash CGSC along
with Ms. Prerna Dhall G.P.
Major Partho Katyayan for UOI.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL.14277/2023 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. A Writ Petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking following reliefs :

“(i) To allow the petition and stay the impugned discharge order discharge order CA-l /1612/SA/DO/Ser190/2022/1706/SMDPC/2022 dated 14 Dec 2022 and Pass such other and further

orders/directions to the Respondents in the attendant genuine circumstances of the case, to meet the ends of justice.

(ii) Pass any other proper and just order as may deem fit and in the interest of justice.”

4. Learned counsel appearing on behalf of the respondent on advance Notice submits that similar prayer is pending before the Armed Forces Tribunal (AFT). However, he has not challenged in the present petition the Order dated 15.03.2023 whereby the interim relief has been declined by the learned Tribunal.
5. Learned counsel appearing on behalf of the petitioner today submits that he has moved an application to amend the prayer to challenge the aforementioned Order passed by the learned Tribunal.
6. On perusal of the impugned Order we find that the discharge of the petitioner has been directed to be subject to the final decision.
7. The present petition was listed yesterday before this Court and we asked the respondents to take instructions as to why his extension which was extended up to March, 2025 has been withdrawn.
8. Learned counsel appearing on behalf of the respondents submits that since there was a conviction in his credit of the year 1995, therefore, he was not eligible for the extension. However, inadvertently the extension had been granted, which now stands revoked vide impugned Discharge Order dated 14.12.2022.
9. In view of the above, since the issue raised in the present petition is pending before the learned Tribunal and learned Tribunal has clarified that discharge of the petitioner shall be subject to the final decision, we are not

inclined to interfere in the said order of learned Tribunal.

10. The petition is accordingly disposed of.

11. Pending application, if any, also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 24, 2023

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