



Neutral Citation Number 2023:DHC:4847-DB

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 13.07.2023

+ W.P.(C) 9213/2023 & CM APPL. 35091/2023, CM APPL. 35092/2023, CM APPL. 35093/2023

CORPORAL KUMAVAT SAGAR NANA Petitioner

versus

UNION OF INDIA AND ORS Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Ajeet Yadav with Mr. Pradeep Shukla, Advocates.

For the Respondents: Mr. Ashok Kumar Kashyap, Sr. Panel Counsel with Mr. Kabir Kumar Hazarika, Govt. Pleader. for UOI Sqn Ldr. M.N. Khan, Sgt. Anil Baloda and Sgt. Mindu Prasad.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner, *inter alia*, impugns policy dated 04.09.2017 titled 'Permission to Appear in Entrance Exam' as also the Air Force order dated 4/23 titled 'Discharge from Service on Compassionate and Other Grounds: Airmen & NCs(E)'. Petitioner, who was enlisted as



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Personnel Below Officer Rank (PBOR) on 03.04.2013 seeks leave from the respondent for pursuing the course “Masters in Business Administration (Hospital Administration & Healthcare Management) at Indian Institute of Management, Jammu. Learned counsel for the petitioner submits that the course is for a period of 24 months commencing on 22.07.2023.

2. Learned counsel for the petitioner submits that the petitioner is willing to avail of any admissible leave for the said purpose. Alternatively, he submits that he would be constrained to even take discharge from the Air Force for the purpose of joining said course. This he submits in view of the fact that undertaking the course would be highly beneficial for the petitioner and for his career progression.

3. Learned counsel for the petitioner submits that the petitioner had sought leave and/or discharge but no final decision on the application has yet been communicated to him.

4. Reference may be had to the decision of the Full Bench of this Court dated 26.05.2023 in WP(C) 9139/2019 titled ***Squadron Leader Neelam Chahar vs. Union of India & Ors.***, wherein, the Full Bench of this Court has held that the Armed Forces Tribunal is competent to hear the challenge to the vires of subordinate legislations, rules, regulations, notifications and circulars etc.

5. In view of the said judgment, the Armed Forces Tribunal is competent to entertain the challenge as raised by the petitioner in the present petition, *inter alia*, challenge to the policies and decision.



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6. Viewed thus, we transfer this petition to the Armed Forces Tribunal (Principal Bench). In view of the urgency expressed by the petitioner, the parties shall appear before the Principal Bench of the Armed Forces Tribunal on 19th July, 2023.

7. In the meantime, respondents are directed to consider the application dated 13.06.2023 (at page 64 of the petition) moved by the petitioner seeking leave and in the alternative, discharge.

8. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

JULY 13, 2023
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