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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11932 OF 2024

Vikram Singh Tomar (Brig.) ...Petitioner

Versus

Union of India throu. Sec. Ministry of Defence & ...Respondents
Ors

Mr Induprakash Tripathi with Mr Mahadevan Anand (VC), for the
Petitioner.

CORAM: M.S. Sonak &
Kamal Khata, JJ

DATED: 12th September 2024

PC:-

1. This matter does not pertain to the regular assignment of this bench. However, since the regular bench was not available, this bench was designated an alternative bench. Upon mentioning, this matter was taken up in the afternoon session.

2. Heard Mr Mahadevan Anand with Mr Tripathi for the Petitioner.

3. This Petition challenges the order dated 15/07/2024 made by the Armed Forces Tribunal declining ad interim relief to the Petitioner in Miscellaneous Civil Application No. 121 of 2024 in Original Application No. 63 of 2024.

4. Mr Mahadevan submits that the attempt to promote candidates from junior batches is *ex facie* illegal. If no interim relief is granted to stay such promotions, the Petitioner, who is senior, will suffer irreparable loss and prejudice. He submits that the Petitioner has an excellent case on merits, and the interest of justice requires that the promotion board holds its hands until the Tribunal disposes of Original Application No. 63 of 2024. He points out that the proceedings before the Tribunal are likely to be delayed, which would immensely prejudice the Petitioner, who is already 55 years old.

5. We have considered Mr Mahadevan's contentions and also perused the record. However, considering that the Tribunal has declined only interim relief, we do not think that the case is made out to warrant interference, given the limited scope of interference in such matters.

6. The Tribunal, in its impugned order, has held against the Petitioner on the aspect of *prima facie* case. Apart from that, typically, such promotions should not be stayed. A stay would entail the position being kept vacant. This is not a very conducive situation, particularly concerning the defence forces. That apart, if the Petitioner finally succeeds, the Petitioner can always be granted all benefits, if necessary, with its retrospective effect. However, if, ultimately, the Petitioner fails, then the time loss can never be recouped.

7. The scope of interference with interim orders made by the Tribunal is also minimal. Unless a case of evident perversity is made out, the balance of convenience supports the grant of such interim relief; there is no question of any interference. In this case, we agree with the Tribunal that no irreparable loss will likely be caused to the Petitioner.

8. We are not inclined to entertain this Petition for all the above reasons. However, we clarify that the observations in our order or, for that matter, for the reasons impugned order dated 15/07/2024 are only *prima facie*. Therefore, such observations should not influence the final hearing of Petitioner's Original Application No. 63 of 2024.

9. Further, we permit the Petitioner to apply to the Tribunal for an expeditious hearing of Original Application No. 63 of 2024. If such an Application is made, we are sure that the Tribunal will consider it and, if possible, accord necessary priority for the final hearing if a good case is made out.

10. With the above observations, this Petition is disposed of. There shall be no orders for costs. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)