



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

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Date of decision: January 10, 2024

+ W.P.(C) 167/2024, CM APPL. 795/2024

NO 948664S SERGEANT KUNDAN

..... Petitioner

Through: Mr. Udit Kumar Thakran, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Vivek Goyal, CGSPC with Mr.  
Gokul Sharma, Advocate (GP)

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**J U D G M E N T**

**V. KAMESWAR RAO, J. (ORAL)**

1. The present petition has been filed by the petitioner with the following prayers:

*“In view of the above, it is therefore most respectfully prayed that this Hon’ble Court may be pleased to:*

*1. Issue a writ Mandamus to stay and quash the operation of the Movement letter dated 11-12-2023 vide number 28 WG/MOV/OUT/2165/23 whereby he is asked to reach Bangalore, by which the petitioner is being posted out on ground that the same is illegal and malafide.*

*2. Impose exemplary cost on the respondents for the illegalities as committed by them during the proceedings leading to unwarranted harassment of the petitioner.*

*3. Any other order which the Hon'ble Court may deem fit in*



*the present facts and circumstances of the case.”*

2. Suffice to state, the order which is under challenge is the movement order directing the petitioner to report to AFS Jallahalli West, Bangaluru.
3. It is conceded by the learned counsel for the petitioner that this movement order is pursuant to an order of reversion of the petitioner dated November 03, 2023.
4. It is also a conceded position that the said order is under challenge before the Armed Forces Tribunal, Principal Bench, New Delhi ('AFT', for short) in O.A. 4149/2023 and there is no stay granted by the AFT with regard to the reversion of the petitioner to Trade duties.
5. If that be so, the order impugned here being consequential to the order of reversion, this petition seeking the stay of the movement order cannot be granted.
6. We are of the view that the present petition to the extent prayers made is not maintainable.
7. The petition is dismissed.
8. At this stage, Mr. Vivek Goyal, CGSPC has drawn our attention to paragraph (o) of the grounds to contend that the petitioner has imputed a submission made by the officer from the JAG Branch of the Air Force to state that, he has wrongly apprised this Court that the matter pertaining to reversion to the trade duties will not be maintainable in this Court and the AFT has the jurisdiction, need to be expunged.
9. Suffice to state that the remedy against reversion or relegating the petitioner from Sports duties to Trade duties shall lie before the AFT and in fact the petitioner has availed the said remedy. So it follows the submission



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of the officer is not a wrong submission as stated in paragraph (o) of the grounds.

**V. KAMESWAR RAO, J**

**SAURABH BANERJEE, J**

**JANUARY 10, 2024/So**