



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

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Date of decision: January 31, 2024

+ W.P.(C) 1386/2024

(56) DR10414A, MAJ GEN SK BHANDARI

..... Petitioner

Through: Mr. Subranshu Dash, Mr. Suresh Kumar Palta and Mr. Akshay Kumar, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Alexander Mathai Paikaday and Mr. Krishan V., Advocates

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:-

In the light of the above-mentioned facts, it is most respectfully and humbly prayed that this Hon`ble Court may graciously be pleased to: -

(a) Issue a Writ of Certiorari and quash the Order dated 15.12.2023 passed by the Respondent in DGAFMS/DG-IX/COMP Cell letter 18836/Spl PB (A)/Lt Gen (ADC)/2024/DGAFMS/DGX/CC dated 15 Dec 2023.

(b) Issue a Writ of Mandamus directing the respondent to take all necessary steps ensuring that proper procedure must be followed and Petitioner will be given Promotion on



ad-hoc basis with all the consequential benefits.

(c) In the interest of justice either the order dated 15.12.2023 be stayed till disposal of the Original Application which is pending before the Hon'ble Armed Forces Tribunal or reconvene the fresh board after liquidation of averment made by petitioner.

(d) That pass any other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

2. In effect, the grievance of the petitioner is qua the order dated January 17, 2024 of the Armed Forces Tribunal ('AFT', in short) wherein the AFT on the prayer for interim relief, has held that all actions taken shall be subject to the final outcome of the OA.
3. The submission of the learned counsel for the petitioner is that the other Officer who has been promoted to the post of Lt. General in the Executive Cadre of the Army Dental Corps in Armed Forces Medical Services shall take over the position, tomorrow and hence his promotion be stayed at this stage.
4. We are not impressed by the submission made by the learned counsel for the petitioner, as the Tribunal has sufficiently safeguarded the interest of the petitioner by stating that all actions taken shall be subject to the final outcome of the OA.
5. Learned counsel for the petitioner submits that the date of hearing in OA is March 21, 2024, be advanced.
6. We have been informed that counter affidavit has not been filed by the respondents in OA. Mr. Shankar Vaidyanathan submits that counter affidavit shall be filed within three weeks as an outer limit.



7. If that be so, one week (thereafter) is granted to the petitioner to file the Rejoinder. The petitioner shall be at liberty to seek advancement of date of hearing before the Tribunal by filing an application which shall be considered by the Tribunal in accordance with law.

8. The petition is disposed of.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 31, 2024/akr