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

+ **W.P.(C) 3296/2024**

EX.GNR. BRIJENDER SINGH CHAUHAN Petitioner

Through: **Ms. Seema Singh and Mr. Dayanand
Sharma, Advocates**

versus

UNION OF INDIA & ORS. Respondents

Through: **Mr. Jivesh tiwari, Mr. Vinod Tiwari
and Ms. Samiksha, Advocates with
Major partho Katyanan, Army**

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
05.03.2024

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CM APPL. 13592/2024(exemption).

Exemption allowed subject to all just exceptions.

Application is disposed of.

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1. The challenge in this petition is to an order dated July 27, 2023 passed by the Armed Forces Tribunal ('AFT' in short) in OA No. 1094/2016. The OA was filed by the petitioner herein challenging the order dated July 29, 2016 whereby the respondents rejected the mercy petition filed by the petitioner against his dismissal from service. He had also sought a consequential relief for grant of pay as well as service pension. The AFT rejected the OA by relying upon the judgment of the Hon'ble Supreme



Court in *Shamsher Singh Vs. UOI and Anr.* Civil Appeal No. 2016/2016 decided on March 3, 2020, which held that without the order of dismissal being set aside, petitioner shall not be entitled to any re-course under the Pension Regulations of the Army. Learned counsel for the petitioner does not contest the position of law as laid down in *Shamsher Singh (supra)*.

2. We also find that the AFT has also referred to the judgment in the case *Union of India Vs. Sub Ram Narain* passed by the Hon'ble Supreme Court whereby the Hon'ble Supreme Court held that the person who was the applicant therein was punished for an offence under Section 38 of the Army Act, 1950 for desertion and having been dismissed is not entitled to any pensionary benefits.

3. We are of the view that the AFT has rightly rejected the OA filed by the petitioner. The petitioner having been dismissed from service, forfeits the right to service pension.

4. The petition is dismissed being without merit.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

MARCH 5, 2024/akr