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

+ **W.P.(C) 7246/2021**

LT COL VINEET GAUR

.....Petitioner

Through: Mr. Kushal Choudhary, Ms. Ritika
Bansal, Mr. Jatin Verma, Advs.

versus

**UNION OF INDIA THROUGH THE SECRETARY OF DEFENCE
& ORS.**

.....Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday,
Advs. with Col. Sarika, Major
Deepak Ranvah, Army.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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11.07.2024

1. The petitioner has approached this Court under Article 226 of the Constitution of India seeking the following reliefs-

“a) Issue an appropriate writ, order or direction in the nature of a writ quashing and setting aside Policy vide MS Branch Letter No. 04502/MS Policy dated 23.12.2017 to the limited extent that it has removed the weightage of marks for M.Tech degree course from Birla Institute of Technical Sciences, Pilani and has applied the said Policy with retrospective effect to the Petitioner.

b) Issue an appropriate writ, direction or order in the nature of writ directing the Respondents to consider the Petitioner for empanelment as fresh case, maintaining the weightage of marks in respect of M.Tech Course.”

2. At the very outset, learned counsel for the respondent submits that not only does that the subject matter of the present petition fall squarely within the jurisdiction of the Armed Forces Tribunal but even otherwise a similar



challenge to the very same policy as assailed before this Court is already pending consideration before the learned Tribunal in OA No.867/2020. He therefore prays that the present petition be dismissed with liberty to the petitioner to approach the learned Tribunal by way of an appropriate Original Application.

3. In the light of the aforesaid stand taken by the respondents, learned counsel for the petitioner prays that instead of the petitioner being directed to file a fresh petition before the learned Tribunal, the present petition wherein pleadings are already complete may itself be transferred to the learned Tribunal for adjudication along with OA No. 867/2020.

4. Having considered the submissions of the learned counsel for the parties, we are of the view that taking into account that the present petition has remained pending before this Court for over 3 years, during which period pleadings have also been completed, it will be in the interest of justice that the present petition itself is transferred to the learned Tribunal for adjudication on merits. The matter is accordingly transferred to the learned Armed Forces Tribunal and will be listed before the appropriate Bench on the learned Tribunal on 30.07.2024.

5. Taking into account that the matter has remained pending before this Court for a considerable time, we request the learned Tribunal to take up the matter for adjudication at its earliest convenience.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 11, 2024/SU