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

Date of Decision: 24.06.2024

+ W.P.(C) 8680/2024

MAJ ANSHUL VERMA & ORS.

..... Petitioners

Through: Mr. Inder Sen Singh, Mr. Abhishek Singh, Mr. Nasir Mohd. & Ms. Kaberi Sharma, Advs.

versus

UNION OF INDIA ORS.

..... Respondents

Through: Major Deepak Ramya, MS, Legal, Major Tarun Pillai, MS, Legal & Major Amish Muralidhar, OIC Legal Cell for UOI.
Mr. Farman Ali (SPS), Ms. Usha Jmnaal, Advs. for R1 to R4.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

HON'BLE MR. JUSTICE DHARMESH SHARMA

MINI PUSHKARNA, J (ORAL)

CM APPL. 35479/2024 (For Exemption)

1. Allowed, subject to just exceptions.
2. Application is disposed of.

W.P.(C) 8680/2024 & CM APPL. 35478/2024 (Interim Relief)

3. By way of the present petition, the petitioners are aggrieved by the common interim order dated 29th May, 2024 passed in *OA No. 1603/2024* and other connected OAs of the petitioners filed before the learned Armed Forces Tribunal (AFT), Principal Bench, New Delhi.
4. Learned counsel appearing for the petitioners submits that the petitioners belong to Other Arms and Services (OAS) category. They have challenged the



order dated 02nd January, 2024 issued by the respondents, wherein, the respondents had reduced the vacancies for OAS category candidates to five vacancies in M. Tech Course under the PGT Scheme in IIT, IISC, DIAT & IIST-ISRO under the Army quota for Academic Session 2024-2026.

5. It is submitted that applications were invited from the petitioners under the policy dated 24th February, 2022, wherein, vacancies were indicated to be 90 per year for admission to M.Tech Courses in IIT, IISC, DIAT & IIST-ISRO under the Army quota. The contention raised on behalf of the petitioners, is that the learned AFT has agreed with the contentions of the petitioners that their candidature for admission to M. Tech Course for Academic Session 2024-2026 should be processed and considered under the policy dated 24th February, 2022, and not under the changed policy, dated 02nd January, 2024.

6. It is submitted that the petitioners were commissioned as officers in the Indian Army on different dates between September 2012 and December 2015 in OAS, other than Engineers (Engrs), Signals (Sign) and Electrical and Mechanical Engineering (EME), which are the three technical arms of the Indian Army. All the petitioners are Engineering graduates (B. Tech) in different discipline of the engineering from different Engineering Institutes.

7. Thus, by way of the present petition, it is prayed that the directions issued in Para 19 of the interim order dated 29th May, 2024 passed by the learned AFT, Principal Bench, New Delhi be 'read down' to the extent that the learned Tribunal had arbitrarily restricted the number of total vacancies to 6 for the officers of OAS category, including the petitioners herein, for admission to M. Tech courses in IIT, IISC, DIAT and IIST-ISRO under the Army quota in Academic Session 2024-2026.

8. Learned counsel appearing for the petitioners submits that the directions passed by the learned AFT vide Para 19 of the impugned interim order dated 29th May, 2024 is, on the face of it, contrary to its finding and the *ratio-decendi*



recorded in Para 15 & Para 16 of the same interim order. Thus, the said direction does not stand the judicial scrutiny and needs to be read-down, so as to align the said direction of the learned AFT with its own finding and the *ratio-decendi*.

9. It is further submitted that the learned AFT has directed that petitioners' candidature for admission to M. Tech course be considered only against six vacancies, which were assigned to the OAS category candidates like the petitioners herein, in the policy existing prior to the policy dated 24th February, 2022, whereas, in its ratio recorded in Para 15 & 16 of the impugned interim order, the learned AFT had actually come to the conclusion that the petitioners' candidature for admission to M. Tech course is required to be considered against all the 90 vacancies assigned *vide* the Policy dated 24th February, 2022.

10. The aforesaid contentions, made on behalf of the petitioners, are disputed by learned counsel appearing for the respondents. He draws the attention of this Court to the impugned order dated 29th May, 2024, in particular, to the following paragraphs:-

“xxx xxx xxx

7. However, in between the selection process, the impugned letter dated 02.01.2024 was issued by the respondents based on a study to re-assess the requirement of M.Tech qualified officers which was approved by the COAS. In this letter, the Number of vacancies were reduced from earlier 450 to 325 for block of 5 years and yearly allocation was reduced to 65 from 90. Thus, the vacancies of other arms and services were reduced from 06 to 05 thereby adversely affecting the chances of applicants' undergoing the M. Tech Course.

xxx xxx xxx

9. We find that in the internal communication between HQ ARTRC and MS Branch dated 10.04.2023 which is placed as Annexure R-5 by the respondents the principle of allocation of vacancies for Technical Arms and Other Arms & Services have been lucidly explained based on which the vacancies have been re-calculated for Block year 2024-28 and same issued vide the Letter dated 02.01.2024. The calculation of vacancies for Block Year 2019-23 and later for the Block Year 2024-2028 have been calculated by the respondents and same has been submitted through the Short Counter Affidavit reproduced as under:

**“COMPARTIVE CHART IN R/O PREVIOUS AND PRESENT 5 YEAR
ROLL
ON PLAN FOR PG/M TECH”**



2019-20	Total Vacs	Vacs Alloted (Per Yr)			Distributed
	450	90			30 Per Tech Arm Proportionate for Other Arm Services wef 2022.
		Arms	Cat I	Cat II	
		Engrs	30	15	
		Sigs	30	10	
		EME	30	15	
		OAS	Proportionate	-	
		TOTAL	90	40	
2024-20	325	65			{*8 Addl vacs allotted to Office other Arm & Services} Based on study Report approved COAS
		Arms	Cat I	Cat II	
		Engrs	20	15	
		Sigs	21	10	
		EME	19	15	
		OAS	05	+8*	
		TOTAL	65	48	

“

10. During the course of submissions before us it was argued by learned counsel for the respondents that the vacancies for other Arms & Services have now been increased to 13 i.e. 05 in Category-I & 08 in Category-II; thus, enhancing their chances of success. If that be so, the grievance of the applicants should not have occurred at all. However, the grievance of the applicants is with respect to vacancies in the Cat-I as the restrictions and conditions imposed consequent to promulgation of letter dated 02.01.2024 has led to disqualification of the applicants who have appeared in the written examination and if successful; are to undertake the GATE interview which is underway while the interim prayer is being heard.

xxx xxx xxx”

11. It is the submission on behalf of the respondents, that as per the policy decision of the respondents, the vacancy position has been brought down to five. However, in terms of the said interim order passed by the learned AFT, the respondents shall consider the said vacancy position to be six, and abide by the directions passed by the learned AFT.

12. He further submits that the courses shall commence only in the month of July as per the schedule of the respective IITs, and other institutions. Thus, he submits that there is no urgency in the present matter.

13. At this stage, learned counsel appearing for the petitioners submits that the petitioners had to approach this Court, owing to the vacations, as the learned AFT is not in session. He further submits that the aforesaid paragraphs, as relied



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upon by learned counsel for the respondents, pertain to the changed policy of 2024, which shall not be applicable to the petitioners, as the petitioners are to be governed by the 2022 policy.

14. Having heard learned counsels for the parties, this Court is of the view that the substantive issue, is already pending before the learned AFT. In case the petitioners need any clarification with respect to the order dated 29th May, 2024 passed by the learned AFT, the petitioners are at liberty to move an appropriate application before the learned AFT, in that regard.

15. As and when such application for clarification of the aforesaid order is filed by the petitioners, the same shall be taken up by the learned AFT, and orders shall be passed in accordance with law.

16. Accordingly, no further orders are required to be passed in the present petition.

17. The present petition is disposed of, in the aforesaid terms.

**MINI PUSHKARNA
(VACATION JUDGE)**

**DHARMESH SHARMA
(VACATION JUDGE)**

JUNE 24, 2024/sa

Signature Not Verified

Digitally Signed
By: AMAN UNIYAL
Signing Date: 25.06.2024
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