



2024:DHC:8545-DB



\$~35

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 05.11.2024***+ **W.P.(C) 12266/2023****MAJ GEN JITENDRA KUMAR SHUKLA VSMPetitioner**Through: Mr.Indra Singh, Mr.Nasir
Mohd., Ms.Kaberi Sharma,
Advs.

versus

UNION OF INDIA & ORS.**.....Respondents**Through: Mr.Neeraj, SPC with
Mr.Vedansh Anand, GP and
Mr.Rudra Paliwal, Mr.Sanjay
Pal, Mr.Soumyadip
Chakraborty, Mr.Sachin
Saraswat, Advs.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 64719/2024**

1. For the reasons stated in the application, the delay of 5 days in filing the rejoinder to the counter affidavit filed by the respondents is condoned.

2. The application is disposed of.

W.P.(C) 12266/2023

3. This petition has been filed challenging the order dated 11.08.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'AFT') in Original Application 1617/2020 titled ***Maj. Gen. Jitendra Kumar Shukla v.***



2024:DHC:8545-DB



Union of India & Ors., which dismissed the said application filed by the petitioner herein.

4. The learned counsel for the petitioner has urged before this Court that arguments in the said application were heard by the learned AFT on 17.12.2021, however, the impugned order was pronounced 21 months thereafter, on 11.08.2023.

5. The learned counsel for the petitioner submits that the impugned order does not even take note of the written submissions that had been filed by the petitioner. He further submits that though only the Confidential Report for the period from 01.07.2012 to 11.10.2012 was impugned in the application filed by the petitioner before the learned AFT, the impugned order itself reflects that the learned AFT has proceeded on the basis that other CRs of the petitioner had also been impugned by the petitioner. He submits that this error also crept in due to the delay in passing of the Impugned Order.

6. The learned counsel for the respondents, on the other hand, submits that the impugned order is well-reasoned and has considered the records.

7. We have considered the submissions made by the learned counsels for the parties.

8. From a bare perusal of the prayers made by the petitioner in the Original Application filed before the learned AFT, it is apparent that the petitioner had impugned only the ACR for the period from 01.07.2012 to 11.10.2012 before the learned AFT. The impugned order, however, reflects that the learned AFT has considered the case



of the petitioner as if the other CRs had also been challenged before it by the petitioner.

9. The fact that the arguments in the application had been finally heard by the learned AFT on 17.12.2021, while the impugned order has been pronounced on 11.08.2023, remains uncontroverted by the respondents. In terms of the judgment of the Supreme Court in **Anil Rai v. State of Bihar** (2001) 7 SCC 318, in our view, this itself is a sufficient ground to set aside the impugned order.

10. Accordingly, the impugned order is set aside. The Original Application filed by the petitioner is restored before the learned AFT.

11. Keeping in view that the Original Application was filed some time on or about 27.10.2020, the learned AFT is requested to decide the same expeditiously, remaining totally uninfluenced by any observation made by it in its order dated 11.08.2023, which has been set aside by this Court.

12. We clarify that this Court has not expressed any opinion on the merits of the challenge to the ACR made by the petitioner.

13. The parties shall appear before the learned AFT on 9th January, 2025.

14. The petition is allowed in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 5, 2024
RN/SJ

[Click here to check corrigendum, if any](#)