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

+ **W.P.(C) 10627/2024**

UNION OF INDIA. & ORS.

.....Petitioners

Through: Mr. Farman Ali, SPC with Mr. Taha
Yasin, Ms. Usha Jamnal, Advs.
Col. Sarika MS Legal
Maj. Anish Muralidhar (Army).

versus

IC-4800Y MAJ GEN SUNIT MEHROTRA

.....Respondent

Through: Mr. Ankur Chhibber, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

05.08.2024

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CAV 349/2024

1. Since learned counsel for the caveator/respondent has entered appearance, the caveat stands discharged.

CM APPL. 43705/2024 –Ex.

2. Allowed, subject to all just exceptions.

3. Application stands disposed of.

W.P.(C) 10627/2024 & CM APPL. 43704/2024-Stay

4. At the outset, learned counsel for the petitioners points out that due to an inadvertent typographical error, the memo of parties wrongly reflects the rank of the respondent as a Major whereas in fact he is a Major General. He, therefore, prays that cause title of the present petition be suitably corrected.

5. At the oral request of learned counsel for the petitioners, the cause title of the present petition stands corrected to “*UNION OF INDIA & ORS.*”



vs. *IC-4800Y MAJ GEN SUNIT MEHROTRA*” and the corrected cause title be incorporated in the present order as well.

6. The present writ petition under Article 226 of the Constitution of India seeks to assail the order dated 03.07.2024 passed by the learned Armed Forces Tribunal in O.A. No.748/2023 vide which the OA has been allowed by the learned Tribunal with the following directions:

- (a) The results of the applicant in No I SB held in 201 9 are set aside.*
- (b) The applicant shall be restored to his original seniority of 1988 Batch.*
- (c) The applicant shall be deemed to be promoted as per his original seniority to the rank, of Maj Gen and be granted all consequential benefits for promotion, pay and allowances and pension.*
- (d) These orders shall take effect within one month from the date of issue of such order.*

7. Learned counsel for the respondent, who appears on advance notice, at the outset submits that taking into account that it is the petitioners’ plea that the learned Tribunal could not have itself restored the original seniority of 1988 Batch of the petitioner as a Major General and have urged that the matter ought to have been remanded to the Selection Board, the respondent is agreeable for setting aside of the directions issued by the Tribunal and the matter being remanded back to No.1 Selection Board for reconsideration of his case for restoration of his seniority.

8. After some arguments, learned counsel for the petitioners, on instructions, submits that taking into account the peculiar facts of the present case and the urgency to hold a Selection Board due to the forthcoming vacancy of Lieutenant General, Corps of Signals, the petitioners would be satisfied in case this Court were to set aside the directions issued by learned



Tribunal for restoration of the petitioner's seniority and were to instead remand the matter back to No.1 Selection Board for reconsideration of the respondent's case for restoration of his seniority in the light of the observations made in the impugned order.

9. In the light of the aforesaid stand taken by the parties, we are of the view that in the peculiar facts of the present case, when both parties are *ad idem* that the matter can be resolved by setting aside the directions issued in the impugned order and the matter being instead remanded to the Selection Board for reconsidering the respondent's case for restoration of his seniority, no useful purpose will be served in examining the legality of the directions issued under the impugned order.

10. We, accordingly, dispose of the writ petition by setting aside the directions issued by the learned Tribunal with a direction that the respondent's case for promotion to the rank of Major General as a fresh case of 1988 batch of Corps of Signals be reconsidered by the Selection Board by taking into account the observations made by the learned Tribunal.

11. We, however, make it clear that in case the Selection Board finds merit in the respondent's claim and decides to restore the respondent's seniority as a Major General, the respondent will not be entitled to claim any arrears of wages.

12. The writ petition along with the accompanying application is disposed of in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 5, 2024/ab