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

+ **W.P.(C) 94/2024**

VIKRANT

.....Petitioner

Through: Mr. Anuj Kumar Pandey & Mr.
Sanjeev Shanker, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Shoumendu Mukeshrji, Sr. Panel
Counsel with Ms. Megha Sharma,
Ms. Akansha Gupta, Ms. Seema
Singh, G.P. for respondents/UOI.
Mr. Major Anish Muralidhar (Army),
Advocate for respondent/UOI.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

30.08.2024

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1. By way of the present petition under Article 226 of the Constitution of India, the petitioner who is serving in the Indian Army as a Sepoy has approached this Court and seeks the following reliefs:-

“i) To pass an Order to issue Writ in the nature of Mandamus to Set-aside the sentence pronounce by Summary Court Martial, JAT Regtl. Centre dated 28/10/2023.

ii) To pass an Order in the nature of Mandamus to respondent no.3 to Set free the petitioner from confinement till disposal this present Writ Petition.

iii) To pass any other Order in the interest of justice and facts and circumstances of this case.”



2. The record shows that taking into account the respondents' plea that the statutory petition dated 15.12.2023 stated to have been filed by the petitioner assailing the impugned findings and sentence awarded by the Summary Court Martial had never been received by the respondents, the matter was being adjourned to enable the learned counsel for the petitioner to produce additional documents to show that the same had indeed been filed.

3. Today, learned counsel for the petitioner hands over in Court a copy of the tracking report from the postal department, according to which some communication sent by the petitioner was served at the office of the respondents at Nirman Bhawan, New Delhi on 22.12.2023. Learned counsel for the respondents vehemently disputes this position and submits that even otherwise the petitioner, despite being well aware of the laid down channel through which the statutory petition was to be filed, ought not to have sent the same by post.

4. Having considered the submissions of learned counsel for the parties, we are of the view that even if the respondents plea that they have not received any statutory petition from the petitioner till date were to be accepted, nothing much turns on the same. It being an admitted case of the respondents that as per paragraph 364 of the Defence Service Regulations read with Section 26 of the Army Act, the petitioner was entitled to file a statutory petition against the findings and sentence of the Summary Court Martial and the respondents ought to decide his statutory petition, copy whereof has been handed over in Court.

5. In these circumstances, we dispose of the writ petition by directing the respondents to decide the petitioner's statutory petition dated 15.12.2023



filed as Annexure P-5 within a period of three months. Needless to state, in case the petitioner is aggrieved by the said order, it will be open for the petitioner to seek legal recourse as permissible in law.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 30, 2024
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