



2024:DHC:8787-DB



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

Date of decision: 12.11.2024

+ W.P.(C) 15678/2024
LT COL S K JHA

.....Petitioner

Through: Mr.S.S. Pandey, Mr.H.S.
Tiwari & Mr.Roshan Kumar,
Advs.

versus

UNION OF INDIA THROUGH THE SECRETARY & ORS.

.....Respondents

Through: Mr.Amit Tiwari, CGSC with
Mr.Hussain Taqvi, GP,
Mr.Ayush Tanwar & Mr.Rahul
Bhaskar, Advs. along with
Major Anish Muralidhar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 65842/2024 (Exemption)

1. Allowed, subject to all just exceptions.

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2. This petition has been filed challenging the Impugned Order dated 17.10.2023 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (in short, 'AFT') in OA No. 28/2019 titled *Lt.Col. S.K. Jha v. Union of India and Ors.*, dismissing the said application filed by the petitioner.

3. The said application was filed by the petitioner challenging the Order dated 20.11.2018 issued by the respondents, rejecting the



statutory complaint of the petitioner against denial of promotion. The petitioner also challenged his Annual Confidentiality Report ('in short, ACR') for the period of 31.03.2014 to 06.02.2015 and for a direction to re-consider the petitioner for the Rank of Colonel.

4. The learned counsel for the petitioner submits that the learned AFT has failed to appreciate that the Initiating Officer had a bias against the petitioner as the petitioner had made complaints against his functioning. He submits that the same is also evident from a correspondence dated 16.12.2014 addressed by the Reviewing Officer to the Initiating Officer, recording that false assertions of complaints and disciplinary action being taken against the petitioner had been made in a correspondence dated 15.12.2014 addressed by the Initiating Officer to the COS, Headquarters Central Command.

5. The learned counsel for the petitioner submits that it is only because of the Impugned ACR, which was written by the Initiating Officer out of *mala fide*, that the entire career of the petitioner is being affected.

6. On the other hand, the learned counsel for the respondents, who appears on advance notice, submits that the learned AFT has given a detailed consideration to the allegations made by the petitioner, and the same does not warrant any interference by this Court. He further submits that there is an unexplained delay by the petitioner in filing the present petition.

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

8. At the outset, we would agree with the learned counsel for the



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respondents that there is a delay of more than one year in filing of the present petition, which remained unexplained by the petitioner.

9. Even on merits, we find that the learned AFT has given a detailed consideration to the numerical grading given to the petitioner by the Initiating Officer, Reviewing Officer, and also by the Accepting Officer. The learned AFT has also given consideration to the pen picture remarks of the three officers. Though the petitioner has alleged *mala fide* against the Initiating Officer, there is no allegation against the Reviewing Officer or the Accepting Officer. In fact, from the own assertion of the learned counsel for the petitioner, the Reviewing Officer was not agreeing with the Initiating Officer on various aspects, however, in the final ACR, he still maintained his remarks while maintaining that the petitioner had remained on leave for a considerable period of time and had been counselled by both the Initiating Officer and the Reviewing Officer on a number of occasions.

10. We are also cognizant of the fact that we are not sitting as an appellate Jurisdiction of the learned AFT.

11. The petition is, accordingly, dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 12, 2024/rv/VS

Click here to check corrigendum, if any