



2024:DHC:9114-DB



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

Date of decision: 25.11.2024

+ **W.P.(C) 16285/2024
EX HAV CHETTAR PAL**

.....Petitioner

Through: Mr.Aman Kumar, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Vikrant N. Goyal, Mr.Nitin,
Advs. along with Maj Anish
Muralidhar, Army.

**CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR**

NAVIN CHAWLA, J. (Oral)

CM APPL. 68588/2024 (Exemption)

1. Allowed, subject to all just exceptions.

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2. This petition has been filed challenging the Order dated 09.08.2024, passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (in short, 'AFT'), in Original Application No. 1673/2016 (in short, 'OA') that has been filed by the petitioner praying for the following reliefs:-



*“(a) To call for records and list of seniority which shows the retirement and promotion of various personnel including the applicant.
(b) To further direct the Respondents to grant the vacancy of Nb Sub to the applicant since the applicant was first in order of seniority to be promoted to the rank of Nb Sub.
(c) The applicant is fit to hold the promotion of Nb Sub and he may be reinstated in service after granting the rank of Nb Sub. The applicant becomes eligible for the extension of service after promotion to the rank of Nb Sub.
(d) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”*

3. It is the case of the petitioner that the petitioner was enrolled in the Indian Army on 01.11.1990 in the Army Medical Corps, and was later transferred to the Army Ordnance Corps (AOC) on 19.12.1992 in the category of Sepoy/Painter Decorate (Ptr Dctr). He was promoted from time to time and was holding the rank of Havaldar on 01.02.2011. He was detailed to attend the promotional course from Havaldar to Naib Subedar, from 05.11.2012 to 05.01.2013, which he duly qualified.

4. The petitioner was the first in order of seniority to be promoted to the rank of Naib Subedar, however, as the post had not been released by the respondent, he approached the learned AFT by way of an Original Application, being OA No. 194/2015. The learned AFT, *vide* its Order dated 13.08.2015, disposed of the said application, observing that the petitioner had not exhausted all his remedies available to him as he has not preferred a representation to the concerned authority. The petitioner was, therefore, directed to make a



representation of his grievance in accordance with law and the respondents were to decide on the same within a period of three weeks of the date of receipt of such representation.

5. The petitioner subsequently filed another OA. No. 775/2015, stating that the respondents had promoted a person junior to him to the post of Naib Subedar. In the meantime, the representation filed by the petitioner was also rejected by the respondents, *vide* its letter dated 10.11.2025. The learned Tribunal, therefore, *vide* an order dated 24.11.2016, allowed the petitioner to withdraw the Original Application with liberty to file a fresh bringing on record the subsequent event/rejection of representation.

6. The petitioner then filed another Original Application, bearing OA No. 1673/2016, which was dismissed by the learned Tribunal by way of the Impugned Order.

7. The learned counsel for the petitioner submits that the learned Tribunal erred in failing to appreciate that the petitioner was the first eligible candidate for promotion to the post of Naib Subedar, however, the respondents delayed releasing of the said post, thereby denying the rights of the petitioner.

8. We have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

9. The learned Tribunal, in its Impugned Order, has observed that the petitioner became over age for appointment to the post of Naib Subedar on attaining the age of 44 years on 05.07.2015. The learned Tribunal further observed that on the promotion of Naib Subedar Nagender Shah to the rank of Subedar on 01.12.2014, one vacancy of



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Naib Subedar was created, however, the said post stood decreased effective from 01.07.2014 due to an order issued by the Army Ordnance Corps Records dated 27.06.2014. Therefore, even though one Naib Subedar was promoted, that vacancy could not be utilized as the vacancy was abolished due to the rationalization scheme prior to the petitioner becoming eligible for the same. The post of Naib Subedar became available only after the petitioner had become ineligible for the same. The learned Tribunal, therefore, by the Impugned Order has rejected the claim of the petitioner.

10. We do not find any infirmity in the Impugned Order.

11. Accordingly, the petition is dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 25, 2024/rv/DG

Click here to check corrigendum, if any