



2024:DHC:9061-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 22.11.2024***+ **W.P.(C) 16260/2024 & CM APPL. 68433-34/2024
MAJOR KAMLESH KUMAR NTS 17570M**

.....Petitioner

Through: **Mr.Nikhil Palli & Ms.Niyati
Razdan, Advs. alongwith
Mr.Kamlesh Kumar**

versus

UNION OF INDIA AND ORS

.....Respondents

Through: **Mr.Arunima Dwivedi, CGSC
with Ms.Pinky Pawar, Adv. &
Mr.Aakash Pathak, GP.****CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed by the petitioner challenging the Order dated 18.11.2024 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'AFT') in MA 5003/2024 in OA 1483/2018 titled ***Maj Kamlesh Kumar v. Union of India & Ors.***, by which the application filed by the petitioner seeking a stay on the Release Order dated 14.11.2024 has been refused by the learned AFT by observing as under:-

"4. Challenging the discharge on merit, submissions were made before us by the applicant and the same were reverted by the respondents. The case is listed for final



hearing on 12.12.2024 and the learned counsel for the applicant submitted that till final hearing of the matter release of the applicant should be stayed.

5. In our considered view, as the claim for grant of DPC has been rejected on three occasions after consideration of the service profile of the applicant and his extension granted is also brought to an end, it is not appropriate by an interim order to grant him extension. The applicant will not suffer a irreparable loss as the case is already listed for final hearing and in case the application is allowed and the applicant is granted PC, he can be directed to be reinstated with all consequential benefits, therefore, at this stage when the issue is pending on merit for consideration before this Tribunal, no case for grant of any interim relief is made out, particularly when after consideration of three occasions the claim for PC is rejected on merit by the appropriate DPC.”

2. The learned counsel for the petitioner insists that the respondents have acted against their own letter dated 30.01.2023, by which the respondents had granted a “provisional extension” of service to the petitioner “till lifting of DV Ban/outcome of Statcomplaint/receipt of CR inputs, **whichever is later**” (Emphasis supplied).

3. The learned counsel for the petitioner submits that the Impugned Release Order has been passed by the respondents without appreciating the emphasis on the words “*whichever is later*”. He submits that the learned AFT has also not given any weightage to the above words.

4. We have considered the submissions of the learned counsel for the petitioner.



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5. In the Impugned Order, the learned AFT has observed that the Original Application filed by the petitioner is listed for final hearing on 12.12.2024 and if the petitioner succeeds in the same, the petitioner would be granted Permanent Commission and can be directed to be reinstated with all consequential benefits.

6. We also take note of the fact that the petitioner already stands discharged from service on 12.11.2024 and, therefore, to grant any relief to the petitioner at this stage would be to direct restoration of *status quo ante*. We find that no such case is made out by the petitioner for the grant of such relief at this stage.

7. In view of the above, we dispose of the present petition with a request to the learned AFT to not grant any adjournment on 12.12.2024 and to make an endeavour to finally hear the Original Application filed by the petitioner on the said date.

8. As has already been observed by the learned AFT, in case the petitioner is to succeed in the Original Application, he shall be entitled to all consequential benefits, including reinstatement in service.

9. With the above observations, the petition alongwith the pending applications is disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 22, 2024/rv/SJ

Click here to check corrigendum, if any