



2025:DHC:1082-DB



\$~47

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 19.02.2025***

+ W.P.(C) 859/2025 & CM APPL. 4213/2025
LT COL PARAG DOVALPetitioner

Through: Mr.Akshay Bhandari,
Ms.Madhuri Malegaonkar,
Advs.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr.Shashank Dixit, CGSC with
Mr.Rohit Gupta, Adv. &
Mr.Amit Acharya, GP along
with Major Anish Muralidhar,

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed, challenging the order dated 16.12.2024 passed by the learned Armed Forces Tribunal. Principal Bench, Delhi (in short, 'Tribunal') in OA No. 1682/2021, titled '***Lt. Col Parag Doval v. Union of India and Ors.***' (hereinafter referred to as the 'first O.A.'), whereby the learned Tribunal has disposed of the said O.A. reserving the liberty of the petitioner to raise all the grounds that have been raised in the said O.A. in the subsequent O.A., that is, the second O.A. bearing No.3243/2024, filed by the petitioner and pending adjudication before the learned Tribunal.

2. Just as a brief synopsis, the facts giving rise to the present petition are that a Court of Inquiry (in short, 'COI') was convened *vide* order dated 06.03.2021, to investigate into certain allegations



2025:DHC:1082-DB



raised against the petitioner, details whereof need not be given in the present petition.

3. The petitioner filed the O.A. before the learned Tribunal challenging the proceedings of his COI. While the same was pending adjudication before the learned Tribunal, the proceedings in the COI continued, and a Show Cause Notice dated 31.01.2024 was served on the petitioner asking him to show cause as to why his services should not be terminated under the provisions of Rule 14 of the Army Rules, read with Section 19 of the Army Act, 1950. The petitioner applied for the supply of complete documents in support of the show cause, which was refused. Aggrieved thereof, the petitioner filed the second O.A., being O.A. No. 3243/2024, before the learned Tribunal. The learned Tribunal by the Impugned Order has observed that all pleas with respect to the proceedings of the COI, can now be taken in the second O.A. filed by the petitioner before the learned Tribunal, and disposed of the first O.A., observing as under:-

“5. The said second petition filed by the applicant i.e. OA No.3243/2024 is pending consideration and is listed for hearing before a co-ordinate Bench of this Tribunal and is being heard along with another case pertaining to the same incident. Be that as it may be, the issue before us now is as to whether any interference in the present application is called for.

6. As is evident from the facts that have come on record, the present petition has been filed seeking quashing of the Col on the grounds canvassed hereinabove. We have heard the matter on 01.10.2024 and it was reserved for judgment and subsequently the second petition has also been proceeding for hearing and



2025:DHC:1082-DB



mostly camera proceedings are being held in the said case.

xxxxxx

8. In the facts and circumstances that have come on record, we are of the considered view that at this stage it is not necessary for us to go into various aspects of the matter as have been canvassed before us in this Application and decide it on merit for the simple reason that the Col and the convening order challenged before us have culminated into an SCN being issued to the applicant for taking administrative action after conclusion of the Col. Once the Col is already concluded and based on the finding of the Col, further administrative action is initiated against the applicant and when this subsequent administrative action is already subjudice before us in the second petition filed by the applicant i.e. OA No.3243/2024 wherein also most of the grounds raised before us in this Application are raised by the applicant, it is not necessary for us now to go into the merits of the matter and take a decision on merit as the issue can be very well decided either in OA No.3243/2024 or the applicant can raise these grounds in reply to the SCN and persuade the authorities to drop the proceedings.

9. Be that as it may, these are issues which can be considered while adjudicating OA No.3243/2024. For the present, in view of the subsequent developments that have taken place, as indicated hereinabove, we are of the considered view that a decision on merit in the present OA i.e. 1682/2021 is not called for. The challenge made to the convening order and conduct of the Col in our considered view, now is rendered infructuous and the applicant is required to raise all these grounds and challenge the subsequent action that has been taken in the matter by issuance of a SCN and this having already been done by filing OA No.3243/2024 it is not necessary for us to adjudicate various points canvassed in this Application instead they can very well be



2025:DHC:1082-DB



considered and the applicant shall have liberty to raise these grounds while making submission in the subsequent OA ie. OA 3243/2024. Accordingly, for the present holding this application to have been rendered infructuous and not calling for any decision on merits, we dispose of the matter with liberty to the applicant to raise all these grounds in the subsequent petition, if advised, or at the subsequent stage in case he is required or challenge any final adverse order that may be passed against him and the respondents can rebut them as and when raised.”

4. The petitioner is aggrieved of the above Impugned Order.
5. The learned counsel for the petitioner submits that the petitioner cannot now be non-suited in his first O.A. only due to lack of an interim order. He submits that the proceedings of the COI continued and resulted in a Show Cause Notice, of which the petitioner was aggrieved and has challenged the same by way of the second O.A. He submits that the grounds of challenges in the first O.A., which has been disposed of by the learned Tribunal by the Impugned Order, and the ones raised in the second O.A., are distinct and not overlapping. He submits that, in any case, the learned Tribunal should have considered the first O.A. pending before it, on merits rather than disposing it of only on the ground that the petitioner has now filed a second O.A. due to further developments.
6. The petition was first listed before this Court on 23.01.2025, when this Court directed the petitioner to file an affidavit clearly stating that he would not raise any ground of challenge to the COI or COI proceedings in the second O.A. that has been filed by the petitioner.



2025:DHC:1082-DB



7. The petitioner has now filed an affidavit dated 07.02.2025 wherein, he, inter alia, states as under: -

“4. I state that if this Hon’ble Court deems it fit to direct restoration of O.A. No. 1682/2021 in terms of the prayer made in the present petition, I shall not challenge the same issues of Court of Inquiry proceedings which I have raised in OA 1682/2021, in O.A. No. 3243/2024.”

8. Issue notice.

9. Notice is accepted by Mr.Shashank Dixit, the learned counsel on behalf of the respondents.

10. In answer to the petition, he submits that all grounds raised in the first O.A., which has been disposed of by the learned Tribunal by way of the Impugned Order, have not only be raised but can even otherwise be agitated by the petitioner before the learned Tribunal in the second O.A. filed by the petitioner. He submits that, therefore, no fault can be found in the Impugned Order, which reserves all the rights of the petitioner to raise all contentions in the second O.A.

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

12. From the above narration of the facts, it would appear that the scope of challenge raised by the petitioner in the two O.As. before the learned Tribunal, is different and against different stages of the inquiry. The petitioner has given an undertaking to this Court, to which he would remain bound, that the petitioner would not be entitled to agitate any of the grounds which have been raised in the first O.A. in the second O.A. filed by him, that is, O.A. No.



2025:DHC:1082-DB



3243/2024.

13. Merely because of lack of any interim order in favour of the petitioner, the COI proceedings culminated into a Show Cause Notice. The petitioner cannot be non-suited with respect to his initial challenge raised in the first O.A. only on this ground. From the Impugned Order, we find that in fact the learned Tribunal had heard the submissions on the first O.A. and had also reserved the same for orders. We, therefore, are of the opinion that the learned Tribunal should have considered the said O.A. on merits rather than leaving it open to the petitioner to raise all these grounds in the second O.A. filed by the petitioner.

14. In view of the above, we set aside the Impugned Order and restore the O.A. No. 1682/2021 before the learned Tribunal to be adjudicated on its own merits.

15. We again reiterate that the petitioner shall remain bound by his undertaking that he shall not be allowed to raise any grounds or re-open the decision of the learned Tribunal in the above-mentioned O.A. while arguing his second O.A., that is, O.A. No. 3243/2024.

16. The parties shall appear before the learned Tribunal for further directions on 20th March, 2025.

17. The petition is allowed in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 19, 2025/rv

Click here to check corrigendum, if any