



2025:DHC:871-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12.02.2025

+ W.P.(C) 1455/2025 & CM APPL. 7083/2025
VIKRAM SINGH

.....Petitioner

Through: Mr. Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Dr. V. S. Mehndiyan, CGSC
with Mr. Kapil Dev Yadav and
Mr. Harsh Dhaka, Advs. for R-
1 to 3.

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, praying for the following reliefs:-

“i. Issue a Writ of Certiorari for quashing of or setting aside of the HR policy dated 15.12.2022 to the extent that clause 5 is arbitrary, unreasonable and discriminatory as it categorises similarly situated personnel by two different yardsticks by discharging only those airmen who are in their last year of their residual service, i.e. 19 years contrary to the provisions of the Air Force Act, 1950 and for quashing of the remarks endorsed on 28.08.2024 in the application dated 23.08.2024 and endorsed on 20.12.2024 in the application dated 19.12.2024 and also for quashing of the letters dated 11.09.2024 and



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24.12.2024 whereby the Respondents/Air Force have rejected the request of the Petitioner to grant NoC as well as discharge certificate; and
ii. Issue a Writ of Mandamus directing the Respondents/Air Force to issue NoC/Discharge Certificate from the post of Sergeant so as to allow him to join the post for which he has been selected, i.e. Assistant Professor (Hindi) and also grant the same relief as has been granted by this Hon'ble Court in catena of judgments on the issue and affirmed by the Hon'ble Apex Court; and
iii. Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case."

2. The learned counsel for respondent nos. 1 to 3, who appears on advance notice of this petition, submits that the jurisdiction to entertain the present petition shall lie with the learned Armed Forces Tribunal ("Tribunal") in terms of Section 3(o) read with Section 14 of the Armed Forces Tribunal Act, 2007.

3. The learned counsel for the petitioner, to answer the above submission, submits that another applicant, being Cpl. Avoy Sinha Babu, had approached the learned Tribunal seeking *inter-alia* a relief to grant of a No Objection Certificate by the respondent/Indian Air Force for the said applicant to join the CGST and Custom Department. The said Original Application, being OA No. 1673/2024, titled '**Cpl Avoy Sinha Babu vs. Union of India & Ors.**', was entertained by the learned Tribunal, however, as far as the prayer of the applicant therein seeking a direction to the CGST and Customer Department to keep one vacancy to the post of Inspector was concerned, the learned Tribunal observed that it would not have jurisdiction to grant such a prayer. The said order was challenged by way of a writ petition before



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this Court, being WP(C) No. 8236/2024, titled '*Cpl Avoy Sinha Babu vs. Central GST Commissionerate & Ors.*', and this Court, by its Order dated 09.07.2024, while directing the learned Tribunal to make an endeavour to decide the Original Application pending before it before 30.09.2024, directed one post to be kept vacant till the disposal of the Original Application.

4. The learned counsel for the petitioner further submits that as the learned Tribunal would not have the jurisdiction over the respondent nos. 4 and 5 in the present petition, that is, the Rajasthan Public Service Commission and the Department of College Education, Government of Rajasthan, the present petition would be maintainable before this Court.

5. He also places reliance on the Order dated 23.09.2024 passed by the High Court of Judicature for Rajasthan at Jodhpur in SB Civil Writ Petition No. 15641/2024, titled '*Ashok Kumar Ruhela vs. The Union of India & Ors.*', to submit that a similar writ petition has been entertained by the said High Court and an interim order has been passed.

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

7. We have reproduced hereinabove the prayers made by the petitioner. The prayers made in the Writ Petition are confined only to respondent nos. 1 to 3. It is only in an interim application, that the petitioner seeks a prayer against respondent nos. 4 and 5 as well, that is, for the candidature of the petitioner not to be cancelled and to keep



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one post vacant. This is a prayer which he can made separately in the form of an appropriate proceedings. In fact, respondent no. 4 and 5 will not be subject to the territorial jurisdiction of this Court.

8. As far as the present petition is concerned, the prayer made in the petition is directed only against respondent nos. 1 to 3 and is a 'service matter', for which the jurisdiction has been vested in the Tribunal by the Armed Forces Tribunal Act, 2007.

9. As far as the proceedings in the case of **Cpl Avoy Sinha Babu** referred by the learned counsel for the petitioner, the learned AFT had entertained the Original Application filed by the applicant therein, however, refused to grant an ad-interim order prayed for by the applicant therein. The order rejecting the interim relief was challenged by the applicant therein before this Court. This Court, in the facts of the said case, granted an ad-interim order in favour of the applicant therein, and, while disposing of the Writ Petition, directed the learned Tribunal to decide the Original Application expeditiously. This Court did not hold that the learned Tribunal lacks the jurisdiction to entertain an Original Application seeking NOC from the Air Force to join a government service. The said proceedings would, therefore, not come to the aid of the petitioner in its contention that the learned Tribunal lacks jurisdiction to adjudicate on the prayers made in the present petition.

10. As far as the order passed by the Rajasthan High Court, the same is an ad-interim order and it does not appear that any objection on the availability of an alternate efficacious remedy was raised by the



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respondent therein. The same therefore, is not a precedent on the question that is being determined by us.

11. We, therefore, refuse to entertain the present petition. The same, along with pending application(s), is accordingly dismissed. However, liberty is reserved in favour of the petitioner to avail of his remedies in accordance with law.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 12, 2025/ss/frk/IK

Click here to check corrigendum, if any