



2025:DHC:1682-DB



\$~48 & 51

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

Date of decision: 12.03.2025

(48)+ W.P.(C) 3195/2025

(51)+ W.P.(C) 3213/2025

**MAJ PANEET GILL
MAJ RASHI MISHRA**

.....Petitioner

.....Petitioner

Through: Col Indra Sen Singh, Mr. Nasir
Mohd. and Ms. Kaberi Sharma,
Advs.

versus

UNION OF INDIA THROUGH & ORS.Respondents

Through: Mr. Neeraj (SPC), Mr. Rudra
Paliwal (G.P.), Mr. Soumyadip
Chakraborty, Mr. Sachin
Saraswat, Mr. Sanjay Pal,
Advs. with Col. Sarika
Pendalwar, Lt. Col. Deepak and
Maj. Anish Murlidhar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

NAVIN CHAWLA, J. (ORAL)

CM APPL. 14925/2025 (Exemption) in W.P.(C) 3195/2025

CM APPL. 15002/2025 (Exemption) in W.P.(C) 3213/2025

1. Allowed, subject to all just exceptions



W.P.(C) 3195/2025 & CM APPL. 14924/2025
W.P.(C) 3213/2025 & CM APPL. 15001/2025

2. These petitions have been filed by the petitioners, challenging the Order dated 10th March, 2025 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal') in M.A. 709/2025 in Original Application 2944/2023 (O.A.) titled *Major Paneet Gill v. Union of India and Ors.*, and in M.A. No. 806/2025 in O.A. No. 2945/2023 titled *Maj Rashi Mishra v. Union of India & Ors.*, rejecting the prayer of the petitioners herein for a direction to the respondents to allow them to continue in service as Short Service Commissioned Officer(s) (in short, 'SSCOs') during the pendency of the petitions. The learned Tribunal, by the impugned orders, has granted protection to the petitioners to a limited extent that their release from service shall be subject to the final outcome of the O.A.(s) pending before it.

3. As both the petitions are based on the common submissions of the learned counsels for the parties and raise similar questions, they are being disposed of by way of this common judgment.

4. To give a brief background to the issue raised, it is the case of the petitioners that they were commissioned as a Short Service Women Officers in the JAG Department of the Indian Army on 19.03.2011. The petitioners were considered by the No. 5 Selection Board for the grant of Permanent Commission/extension along with their batchmates in December 2020, however, their result was 'withheld on administrative grounds' specifying no reasons for the



same.

5. The petitioners were granted a provisional extension for a period of six months, up to 16.09.2021 stating that 'their results will be declassified on finalization of their cases'. It was also mentioned that the cases of 5 other officers, including 2 from the JAG department were 'withdrawn' from the Selection Board to be considered in the next No. 5 SB tentatively in May, 2021.

6. *Vide* letter dated 15.01.2021, in respect of 08 officers of the petitioners' batch, including 02 JAG Officers who were 'withdrawn' from the consideration held in December 2020, the Army Headquarters requested for their confidential reports and dossier. Apart from the 'gap CR' for the period November 2018 to August 2019, one additional CR for the period November 2019 to October 2020, that is CR beyond the cut-off date of 31st October 2019 fixed for the batch of the petitioners, was also sought for these 2 JAG Officers.

7. In the consideration held in May 2021, the said 02 'withdrawn' JAG Officers were granted Permanent Commission (PC), though the petitioners, who were similarly situated and whose results had been withheld, were not granted the Permanent Commission (PC).

8. The petitioners challenged the same by filing an Original Application(s) before the learned Tribunal, primarily raising three submissions: -

- (i) The vacancies had been not properly calculated;
- (ii) There was unfair and discriminatory consideration of the petitioners for the Permanent Commission (PC); and,
- (iii) Relief of grant of pension to the petitioners in case the



Permanent Commission (PC) is not granted.

9. The respondents filed a short affidavit in response to the O.A.(s), merely placing reliance on their reply affidavit filed in another O.A., being O.A. 28/2022, titled ***Maj Suvalakshmi Borgohain v. Union of India & Ors.***

10. O.A. had been decided by the learned Tribunal *vide* its Order dated 03.07.2024. Aggrieved by the said decision, appeals, being Civil Appeal Dy No. 32457/2024 titled ***Devki Kaswan & Anr. v. Union of India & Ors.***, and Civil Appeal Dy No. 32212/2024 titled ***Lt Col Pooja Pal & Ors v. Union of India & Ors.***, were filed, and the Supreme Court granted *interim* protection to the appellant-officers therein by Orders dated 20.08.2024, directing that they not be released till the appeal(s) are taken up for hearing. The petitioners contend that the said *interim* order continues till date.

11. The petitioners, who were due to be released on 18.03.2025, placing reliance on the above orders passed by the Supreme Court, filed Miscellaneous Applications seeking a direction to the respondents not to release them from service on the said date.

12. However, the learned Tribunal, by its impugned order, rejected the said prayer, while at the same time, protected the petitioners by directing that their release from service shall be subject to the final outcome of the O.A(s).

13. The learned counsel for the petitioners submits that the O.A.(s) filed by the petitioners were ready for final hearing before the learned Tribunal, however, the learned Tribunal found that the reply affidavit filed by the respondents was deficient, as it merely relied upon their



affidavit filed in the Original Application filed by **Major Suvalakshmi Borgohain**. Therefore, the learned Tribunal granted liberty to the respondents to file a detailed counter-affidavit in the O.A. filed by the petitioners herein. He submitted that the petitioners, however, have been made to suffer due to the default of the respondents in not filing a detailed counter-affidavit at an earlier stage.

14. He further submitted that the case of the petitioners is similar to that of **Devki Kaswan & Anr.** (supra) and **Lt. Col. Pooja Pal & Ors.** (supra), pending before the Supreme Court, wherein the officers who were appellant therein, have been granted *interim* protection by the Supreme Court.

15. He submits that the learned Tribunal had wrongly placed reliance on the Order dated 24.02.2025 passed by the Supreme Court in the case of **Maj Avinish Shukla v. UOI & Ors.** (Civil Appeal Dy No. 57908/2024), wherein the Supreme Court stated that the release of the appellant therein shall be subject to the final outcome of the appeal pending before the Supreme Court.

16. He submits that in the present case, additional issues, apart from the grievance raised by Major Avinish Shukla, had been raised, inasmuch as the result of the petitioner(s) had been 'withheld on administrative grounds' without providing any reasons by the Selection Board. It is the case of the petitioners that the same had been done solely to benefit two other officers. He submits that this issue does not arise in the case of **Major Avinish Shukla** (supra). He submits that, therefore, petitioners should have been granted protection similar to as was granted in the case of **Devki Kaswan &**



Anr. (supra) and **Lt Col Pooja Pal & Ors.** (supra).

17. On the other hand, the learned counsels for the respondents, who appear on an advance notice of these petitions, submits that the case of the petitioners that their result had been withheld to benefit two other officers, is incorrect and not borne out from the record. He submits that the learned Tribunal has perused the record produced by the respondents before passing the impugned order.

18. He submits that the result of the petitioners had been withheld as the cases of the other two officers had been withdrawn from the Selection Board to be considered in the next Selection Board. Upon consideration, these two officers qualified for the grant of Permanent Commission (PC), thereby filling up all the vacancies, because of which the petitioners could not be granted the Permanent Commission (PC).

19. He submits that the submission of the petitioners that additional CRs were considered for these two officers, is incorrect as no additional CR was taken into consideration.

20. He further places reliance on the Judgement of this Court in **Wg Cdr Nidhi Badhani v. Union of India & Ors.**, 2021 SCC OnLine Del 3085, and Order dated 03.10.2024 passed in W.P. (C) 14001/2023 titled **Major Preeti Yadav & Anr v. Union of India & Ors.**, stating that petitions seeking relief similar to the one prayed by the petitioners herein, have been dismissed by this Court.

21. He further submits that there were a total of 53 applicants in the case of **Maj Suvalakshmi Borgohain** (supra), before the learned Tribunal. Out of these, only 13 applicants have been granted *interim*



protection by the Supreme Court.

22. We have considered the submissions by the learned counsel for the parties.

23. From the above submissions, it would be evident that, as far as the issue of the number of vacancies is concerned, the same has been decided by the learned Tribunal by way of its Order dated 03.07.2024, which has been challenged in several appeals before the Supreme Court. While *interim* protection was granted to the applicants in the appeals of **Devki Kaswan & Anr.** (supra) and **Lt Col Pooja Pal & Ors.** (supra), a subsequent Order dated 24.02.2025 passed in **Major Avinish Shukla** (supra), confined the *interim* protection granted to the appellant therein only to the extent that her release from service shall be subject to the outcome of the appeal.

24. Being the latest of the *interim* orders passed, we do not find any fault in the learned Tribunal following the same as far as the petitioners are concerned.

25. On the other issues raised by the petitioners before the learned Tribunal, we may only note that the learned Tribunal, in the impugned order, has mentioned that it had perused the Selection Board proceedings held from 21.12.2020 to 24.12.2020, concerning the petitioners, as well as the No. 5 Selection Board held from 15.07.2021 to 18.07.2021. Having considered these proceedings, it has passed the impugned order directing the respondents to file a further counter-affidavit. We, therefore, would not like to make any further comment on the submissions made by the learned counsel for the petitioners, as these are to be adjudicated first by the learned Tribunal at the first



2025:DHC:1682-DB



instance.

26. However, at the same time, we find merit in the submission of the learned counsel for the petitioners that the respondents having been granted a further opportunity to file a counter-affidavit, and that once the petitioners are released from service, there may no longer be an urgency felt by the learned Tribunal to expedite the adjudication of the O.A. filed by the petitioners and pending before it, we direct the respondents to ensure that their additional counter-affidavit is filed before the learned Tribunal within the time that has been granted by the learned Tribunal. The petitioners shall file their rejoinder within the time granted by the learned Tribunal. The learned Tribunal would endeavour to consider the O.A.(s) filed by the petitioners for final hearing and disposal on the next date fixed before it.

27. The petitions and the pending applications are disposed of in the above terms.

NAVIN CHAWLA, J

HARISH VAIDYANATHAN SHANKAR, J

MARCH 12, 2025/Pr/Ab/DG

Click here to check corrigendum, if any