



2025:DHC:9354-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 16224/2025, CM APPL. 66375/2025 & CM APPL. 66376/2025

SUB MANOJ KUMAR (JC 779592)Petitioner
Through: Mr. Manoj Gupta, Adv. with
Major Anish Muralidhar for Army

versus

UNION OF INDIA AND ORS.Respondents
Through: Dr. V.S. Mahndiyan, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER (ORAL)
17.10.2025

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C. HARI SHANKAR, J.

1. This writ petition is directed against an order dated 13 October 2025 passed by the Armed Forces Tribunal¹ whereby an application for interim relief, made by the petitioner as the applicant in OA 2769/2025², has been rejected.

2. The petitioner approached the AFT, aggrieved by the fact that he was denied permanent commission. His candidature for permanent commission was rejected by the respondents by order dated 28 August 2025, on the ground that his Annual Confidential Reports³ did not

¹ "AFT" hereinafter

² **Sub M Tech (Radar) Manoj Kumar v UOI**

³ "ACRs" hereinafter



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meet the grade for him to be granted permanent commission.

3. In the OA, the petitioner also included the following interim prayer:

“In view of the fact and circumstances of the case the applicant seeks interim relief that one vacancy in PC SL Quota/Electronic & Mechanical Assistant Engineer (EMAE) be kept reserved during the pendency of the OA and direct the respondents to send applicant for training provisionally since training will start on 15.09.2025 and keep grant of commission on hold till final disposal of the OA as if the same is not done in this year, the applicant will suffer irreparable damage despite prima facie case in his favor and balance of convenience is also in his favour.”

4. The impugned order rejects the interim relief sought by the petitioner. In passing the impugned order, the AFT has first noted that Army Order 06/2021/AG/MP, on which the petitioner placed reliance, was not applicable for grant of permanent commission. The AFT has noted that the said Army Order apply only for the purposes of CR Assessment, for the purposes of promotion and not for grant of permanent commission.

5. *Prima facie*, there is no error in this finding of the AFT and learned Counsel for the petitioner is also not able to dislodge this finding of the AFT.

6. The AFT has additionally relied upon a letter dated 28 March 2025, issued by the AG Branch of the Army, in which it was remarked that if any superior officer did not recommend the candidature for grant of permanent commission, he would not be so eligible. It has been noted by the AFT that the Directorate General, being a superior



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officer to the petitioner had specifically not recommended the petitioner for grant of permanent commission. The submission of learned Counsel for the petitioner is that the letter dated 28 March 2025 was not in existence at the time when the selection process for consideration of the petitioner's case for grant of permanent commission had commenced and that, therefore, the said letter could not stand as a hurdle in his way.

7. The AFT has additionally noted that the petitioner had not been recommended for grant of permanent commission by several reporting officers and was granted "not recommended" grading by the IO in the petitioner's ACR for the year 2023. All these adverse assessments by multiple reporting officers, according to the AFT, raised serious concerns regarding the petitioner's overall suitability for grant of permanent commission.

8. It is against this order that the petitioner has approached this Court. The only contention that Mr. Manoj Gupta, learned Counsel for the petitioner advances is that the AG Branch letter dated 28 March 2025 could not be retrospectively apply to him as the selection process, in his case, had commenced prior thereto.

9. Even if this contention of the petitioner were to be treated as correct, the AFT has, as already noted, relied on two other factors for disallowing the petitioner's claim for interim relief. It has noted the fact that Army Order 06/2021/AG/MP, on which the petitioner placed reliance, was not applicable to grant of permanent commission but only applied to CRs for the purposes of promotion. It additionally



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noted that the petitioner had, for several earlier years, not been recommended for grant of permanent commission and that, in 2023, the IO had specifically noted, in the petitioner's CR, "not recommended".

10. The AFT is only required to arrive at a *prima facie* finding while deciding the matter of interim relief. The jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of such a *prima facie* view is even more circumscribed. This Court would ordinarily not interfere with the discretion exercised by the AFT unless it is manifestly perverse or arbitrary.

11. We do not find any arbitrariness or manifest perversion in the order passed by AFT.

12. Moreover, all contentions that Mr. Gupta advances before us would be available for the petitioner to advance when the OA is taken up for hearing. The order under challenge is only an interim order. It does not result in any lasting or irreparable prejudice to the petitioner.

13. We reserve liberty with the petitioner to raise all contentions that had been advanced in this writ petition and during oral arguments before us, before the AFT.

14. Suffice it, therefore, to state that no case for interference with the impugned order of the AFT within the limited parameters of *certiorari* jurisdiction under Article 226 of the Constitution of India is



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made out, as delineated by the Supreme Court in its judgment in *Syed Yakoob v K.S Radhakrishnan*⁴.

15. We, therefore, are of the opinion that no case has been made out for issuance of notice in this writ petition. The writ petition is therefore, dismissed *in limine*.

16. We clarify that the observations made by us in this order are only intended to deal with this present writ petition and shall not influence the AFT when the OA is taken up for hearing. Additionally, the AFT would not be influenced by any observation or finding contained in the order dated 13 October 2025, under challenge herein. All contentions of fact and law shall remain open to be urged at that stage.

17. The petition is accordingly dismissed.

18. We also reserve liberty with the petitioner to move the AFT for expedited hearing of the OA. It would be for the AFT to take a call in that regard.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

OCTOBER 17, 2025

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