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

+ **W.P.(C) 1859/2026**

RAM BHARAT SINGH KUSHWAHA

.....Petitioner

Through: Mr. M. Gireesh Kumar, Mr. Sanjay Singh, Ms. Sneha Mathew, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Dr. Ishaan Swarana Sharma, SPC with Ms. Shambhavi Sharma, GP, Mr. Ayush, Mr. Shubham Shukla, Mr. Mukund Ranjan, Ms. Avantika Pandey, and Ms. Vanshika Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **10.02.2026**

CM APPL. 9038/2026(Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. This petition has been filed by the petitioner with the following prayers:

“(a) Issue a writ of certiorari or any other appropriate writ, order or direction to (i) quash and set aside the Office Memorandum dated 12.12.2024 issued by the Respondent No. 2/Director General, ITBP (Annexure- P1); (ii) quash and set aside the Order dated 23.09.2024 issued by the Respondent No. 2/Director General, ITBP, to the extent it fixes the Petitioner's seniority in the rank of Commandant (GD) below his



batchmates from the 1999 batch (Annexure -P2); and (iii) direct the expungement of the adverse remarks/entries in the Annual Performance Assessment Report (APAR) for the year 2013-14, being illegal, arbitrary, and violative of principles of natural justice;

(b) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the Respondents to (i) fix the Petitioner's seniority in the rank of Commandant (GD) with effect from the year 2017, along with his batchmates from the 1999 batch; and (ii) grant the Petitioner all consequential benefits, including arrears of pay and allowances, with effect from 2017;

(c) Pending the hearing and final disposal of the present Writ Petition, stay the operation and implementation of the impugned Office Memorandum dated 12.12.2024 and the Order dated 23.09.2024 to the extent they fix the Petitioner's seniority in the rank of Commandant (GD) below his batchmates, as the Petitioner will suffer irreparable harm and injury if the impugned orders are allowed to operate during the pendency of the petition;”

4. In substance, the challenge of the petitioner in this petition is primarily to the Annual Performance Assessment Report (APAR) of the year 2013-14.

5. According to the learned counsel for the petitioner, though the petitioner has got promotion to the post of Commandant w.e.f. 2021, the petitioner has not been promoted from the date his batchmates have been promoted i.e. from 2017.

6. According to the learned counsel, the delay in promotion of the petitioner is because of a show cause notice issued to the petitioner for alleged offence/misdemeanor, resulting in the proceedings of the DPC kept in a sealed cover. On the opening of the sealed cover, the petitioner has been granted promotion in 2024 but w.e.f. 2021. A reading of the office



memorandum dated 23.09.2024, whereby the petitioner was granted promotion would reveal that he has been promoted as Commandant from the date on which his junior namely Mr. Vishal Mahant assumed charge to the post of Commandant.

7. Though, submissions have been made by the learned counsel for the petitioner, challenging the adverse entries in the APAR of 2013-14, the same were communicated to the petitioner in the year 2014 itself to which the petitioner has submitted his representation on 09.07.2024 and which representation was rejected by the respondents on 21.07.2014. Hence, it is too late in the day for the petitioner to challenge the said APAR in the year 2026.

8. In any case, the submission of the learned counsel for the petitioner is that as the petitioner has got promotion in the year 2024 w.e.f. 2021, the effect of the adverse APAR have been felt in the year 2024 w.e.f. 2021 as the petitioner has not been granted promotion along with the batchmates and hence, the challenge to the adverse entries of APAR 2013-14 is not hit by delay and latches, is not appealing.

9. This we say so for the reason he was within his right to challenge the rejection of the representation made against the adverse entries in APAR of the year 2013-14, immediately on the receipt of rejection order on 21.07.2014 or immediately thereafter but challenging in the year 2026, shall hit the petition by delay and latches.

10. In any case, we are of the view that the petitioner having got the promotion as Commandant w.e.f. 17.12.2021 i.e. the date on which his immediate junior Mr. Vishal Mahant has assumed charge of the post of Commandant, no prejudice has been caused to the petitioner.



11. We find no merit in the petition.
12. The petition is dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 10, 2026

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