$~80

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

\# **CNR No. DLHC010480782026**

\+ W.P.(C) 14762/2026 & CM APPL. 69206/2026, CM APPL. 69207/2026

HAV (RETD) RAJESH KUMAR .....Petitioner

Through: Mr. Vinod Kataria, Mr. BP Vaishnav and Mr. Ajay Kataria, Advs.

versus

UOI AND ORS .....Respondents

Through: Major Rahul Kumar and Capt. Himanshu Tyagi Army
Dr. Vijendra Singh Mahndiyan, CGSC with Mr. Daksh Bhardawaj, GP and Mr Vaibhav Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE SANJAY SHARMA

O R D E R

% 06.10.2026

1. We have heard the learned counsels appearing for the parties.

2. The challenge in the present writ petition is to the Order dated 03rd July, 2025 passed by the Armed Forces Tribunal (PB) [‘AFT’] in O.A. No. 361/2024 *viz prayer clause (a).*

3. There are two other prayers in the petition and *viz. prayer clause (b)* the petitioner is seeking issuance of a Writ of Mandamus directing the respondents to grant the petitioner ‘***total exemption***’ from mandatory promotion cadre courses in terms of Para 11 of Army Order 12/2009, and

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:08:58

consequent to the aforesaid '*total exemption'*, the petitioner is praying for grant of notional promotion to the rank of *Naib-Subedar* w.e.f. the date his juniors were promoted, along with all consequential financial arrears.

4. In the *prayer clause (c)* of the present petition, the petitioner has prayed for the issuance of a Writ of Mandamus directing the respondents to release the complete *Ex-Gratia* Lumpsum Compensation package applicable to 60% permanent disability resulting from a battle casualty (*Op Rakshak*) mine blast @12% p.a. w.e.f. 06th April, 2001 *i.e.,* from the date of injury until final realization.

5. As far as the prayer clause (c) is concerned, it is a fact borne out of the record that such a prayer seeking grant of *ex-gratia* lumpsum compensation was never canvassed by the petitioner before the Armed Forces Tribunal (AFT).

6. In response to the court's query, the learned counsel for the petitioner prays that the petitioner be granted liberty to agitate the said issue either before the AFT or before the competent authority in the matter of grant of *ex-gratia* Lumpsum Compensation.

7. The *prayer clause (c),* as such, is not pressed by reserving the liberty. That being so, the prayer to the extent of *prayer clause (c)* stands disposed of by reserving the liberty as aforesaid.

8. As regards the prayer clause (b), which is in regard to the grant of '*total exemption'*, is concerned, amongst others, the conditions which are required to be satisfied for grant of such an exemption are as follows:-

a) That he should have suffered from a battle casualty.
b) The Medical Officer should have recommended that he is exempted from attending the mandatory promotion cadre courses.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:08:58

c) Based on the same, he shall apply to the Officer Commanding to grant him such exemption in his discretion.

9. When confronted, though the learned counsel for the petitioner has made an effort, by relying on the observations made in the impugned order of the AFT, to urge that there is material to infer that the respondents can consider his claim for grant of such exemption, we hardly see any document or any decision of the Officer Commanding to that effect whereby his candidature was accordingly exempted from the mandatory promotion cadre courses in terms of the requirement mentioned under para 11 of the Army Order 12/2009.

10. The Army Order 12/2009, particularly, para 11 reads thus:

> *"11. NCOs in Medical Category SHAPE-I only will be detailed to attend the cadre course. If a formation or unit commander details an NCO of a lower medical category, to attend a particular cadre course, he will furnish a certificate to the Record Office concerned, that the NCO is capable of undergoing that cadre course. This certificate will be endorsed by the Unit Medical Officer, to the effect that the cadre course will not have an adverse effect on the health of the NCO. However, in case of war wounded NCOs, who are placed in the low medical category, the Officer Commanding is authorized to grant partial or total exemption from attending a cadre course, on the recommendation of the Medical Officer."*

11. As such, it is required to be demonstrated by the petitioner that he is not in medical category *SHAPE-I* and as such cannot attend the cadre course. He has to further demonstrate that his lower medical category, like the one in this case, was found to be the basis for recommending the grant of exemption.

12. In our opinion, the petitioner should take a recourse to the appropriate remedy by approaching the Officer Commanding with appropriate recommendation from the Medical Officer *qua* his disability so as to claim

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:08:58

such exemption from attending a cadre course.

13. If such an attempt has not already been made on behalf of the petitioner, by reserving the liberty in favour of the petitioner, we see no reason to infer that the Armed Forces Tribunal was in error.

14. However, the petitioner is at liberty to approach the competent authority for grant of exemption from the mandatory cadre promotion course and for grant of notional promotion provided he satisfies the requirement mentioned under *clause 11* of the Army Order 12/2009.

15. In view of the above, we see no reason to cause interference, the present petition, accordingly, stands dismissed.

16. Pending applications, if any, also stand disposed of.

NITIN WASUDEO SAMBRE, J

SANJAY SHARMA, J

OCTOBER 6, 2026/*sky/gs*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:08:58