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

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Date of Decision : 26.02.2026

+ W.P.(C) 2715/2026 CM APPL. 13213/2026 CM APPL. 13214/2026

MAJ ABHIK CHAUDHURYPetitioner

Through: Mr. Jagdev Singh Gulliya, Adv.

versus

UNION OF INDIA, THROUGH THE SECRETARY, MINISTRY
OF DEFENCE & ORS.Respondents

Through: Mr. Sandeep Kumar Mahapatra,
CGSC, Mr. Akash Gupta, GP, Mr.
Rajat Sharma, Ms. Mrinmayee Sahu,
Mr. Tribhuvan, Mr. Abhimanyu
Asija, Advs.
Mr. Akash Gupta, Adv. (GP)
Major Tarun V Pillai and Major
Gaurav, Army
Major Kanika Sharma, Army

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO , J. (ORAL)

CM APPL. 13214/2026 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. This petition lays a challenge to an order dated 13.02.2026 whereby the prayer of the petitioner for an interim relief that the operation of the release order dated 16.12.2025 be stayed, has been rejected by the Tribunal. The Tribunal has in paragraph 2 onwards stated as under:

*“2. It is prayed on behalf of the applicant that his case is covered by the order passed by the Hon’ble Supreme Court in Civil Appeal No.9747-9757/2024, **Lt Col Pooja Pal & Ors. Vs Union of India & Ors.**, wherein the benefit of stay has been granted till the final decision in the said case. It is accordingly contended that the applicant is entitled to continuation in service till the final decision is rendered by the Hon’ble Supreme Court in the case of **Lt Col Pooja Pal & Ors.** (supra).*

3. Per contra, learned counsel for the respondents submits that the case of the applicant is factually distinguishable. It is contended that the applicant was not granted extension based on certain specific facts which shall be placed on record by way of a detailed counter affidavit.

4. The records pertaining to the applicant have been produced by the respondents and perused by this Tribunal. We have considered the submissions advanced on behalf of the parties and upon perusal of the records, we have observed that the applicant has not been recommended for Permanent Commission/Extension of Service based on his assessment by various reporting officers and the consideration of his overall merit and profile by the members of the Selection Board. These facts notwithstanding, at this moment without expressing any opinion on the merits of the case, we are of the considered view that the balance of convenience does not lie in favour of the applicant.

5. Insofar as the plea of irreparable loss is concerned, it is well settled that in the case the applicant ultimately succeeds, appropriate consequential benefits, including reinstatement, can be granted in accordance with law. Thus, no irreparable injury would be caused to the applicant at this stage.



6. We are fortified in our view by the judgment of the Hon'ble High Court of Delhi in the W.P. (C) No. 10180/2023 tilted **Union of India & Ors. Vs Gulshan Saini** wherein it has been held as under:—

9. If one were to balance equities between the parties then if respondent were to succeed before the Tribunal and is promoted to the next higher rank of Brigadier then he can be reinstated with full benefits and seniority retrospectively. However, in case respondent were not to succeed in the petition, the period for which respondents would continue to serve pursuant to the impugned interim order would in effect be an illegal usurpation of office.

7. In view of the above discussion, the interim prayer for stay of discharge is rejected as being devoid of merit.

8. Let the respondents file their counter affidavit within four weeks. Rejoinder, if any, may be filed within two weeks thereafter.

9. List the matter again on **24.04.2026.**”

4. Mr. Jagdev Singh Gulliya, learned counsel appearing for the petitioner submits that the services of the petitioner be extended till the O.A. is decided.

5. We are unable to accept such a plea of Mr. Gulliya, for the reasons stated by the Tribunal in paragraphs 4 and 5 which are reproduced above.

6. During the course of submissions, Mr. Gulliya has drawn our attention to Annexures P-4 and P-5. We have been informed that insofar as Annexure P-4 is concerned, the respondents have filed an application seeking vacation of the said order passed by the Tribunal. Insofar as Annexure P-5 is concerned, the counsel for the respondents states that those were passed in the facts of that case, which are not applicable in the case of the petitioner herein.



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7. In any case, we are of the view, for the reasons recorded by the Tribunal, particularly in paragraphs 4 and 5 thereof, and clarifying that the conclusion arrived at by the Tribunal is only a prima facie view, the present petition is dismissed. The pending application, also stands disposed of.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 26, 2026/msh