



2025:DHC:889-DB



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

Date of Decision: 10.02.2025

+ W.P.(C) 1623/2025

COL JG MANHAS

.....Petitioner

Through: Adv. (appearance not given)

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Mr. Nitinja Chaudhry, SPC
with Ms. Vidhi Gupta, Mr.
Rahul Mourya, Advs.

Col. Sarika, Major Tarun Pillai
& Major Anish Muralidhar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J (ORAL)

CM APPL. 7907/2025

1. Allowed, subject to just exceptions.
2. Application stands disposed of.

W.P.(C) 1623/2025 & CM APPL. 7906/2025

3. This petition has been filed by the petitioner praying for the following reliefs:

- a. To issue a writ of Certiorari, order or direction in the nature of Certiorari quashing and setting aside impugned Interim Confidential Report for the period 01 Sep 2015 to 26 Dec 2015 (not held with the Petitioner), Annexure No.P-5*



*dt.14.08.2018, Annexure No.P-7
dt.20.02.2020, Annexure No.P-11 dt.
23.11.2022, Annexure No.P-14 dt.
04.03.2024 and its effect in No.2 Selection
Boards stated supra, with all
consequential service benefits at his
original seniority.*

- b. To issue a writ of Mandamus, order or
direction in the nature of mandamus
commanding the respondents to consider
the petitioner by the Special Review
(fresh) Selection Board No.2, with all
consequential service benefits,
uninfluenced with the impugned CRs by
excluding it and orders as contained in
Annexure mentioned in Para A supra, as if
it is non-est.*

4. Annexure P-7, which is being challenged before us, is the Order dated 20.02.2020 passed by the learned Armed Forces Tribunal ('Tribunal'), Principal Bench, New Delhi in Original Application (OA) No.5/2019 titled, '**Col Jay Gaurav Manhas vs. Union of India & Others**', by which the learned Tribunal had rejected the challenge of the petitioner to the Annual Confidential Report ('ACR') for the period 01.09.2015 to 26.12.2015, which is also in challenge before us.

5. The present petition, as far as it challenges the Impugned Order dated 20.02.2020 is concerned, is highly belated as having been filed only on 07.02.2025, that is, after a period of almost five years.

6. The learned counsel for the petitioner seeks to justify this delay by explaining that the petitioner had earlier filed a Writ Petition before the High Court of Judicature at Allahabad, Lucknow Bench. He submits that this Writ Petition, however, was rejected *vide* Order dated 23.10.2024 on the ground of lack of territorial jurisdiction by



reserving the liberty to the petitioner to assail the Impugned Order before the Forum having territorial jurisdiction.

7. Issue notice.

8. Notice is accepted by Mr. Nitinjya Chaudhry, the learned counsel for the respondents. He submits that the petition is liable to be dismissed on the ground of delay and laches and on the ground of the availability of an alternative efficacious remedy.

9. We have considered the submissions made by the learned counsels for the parties.

10. We are not satisfied with the explanation that has been offered by the learned counsel for the petitioner for the delay. The said Writ Petition before the High Court of Judicature at Allahabad, had been filed only on 25.10.2024, that is, again with much delay.

11. As far as the challenge of the Impugned ACR and Annexure P-5, that is, the communication dated 14.08.2018 dismissing the statutory petition of the petitioner against the Impugned ACR is concerned, the same have culminated in the Impugned Order dated 20.02.2020 of the learned Tribunal. Hence, the said challenge would also no longer survive.

12. The petitioner also challenges the communications dated 23.11.2022 and 04.03.2024, by which the respondents have communicated the reasons to the petitioner for not empanelling him for promotion to the rank of Brigadier by No.2 Selection Board (Fresh), held in June 2021 and July 2021, respectively. In case the petitioner is aggrieved of the same, the petitioner has to first approach



the learned Tribunal in view of Section 3(o) read with Section 14 of the Armed Forces Tribunal Act, 2007.

13. The learned counsel for the petitioner, placing reliance on the Judgment of the High Court of Judicature at Patna in ***IC 38558Y Colonel Sarat Chandra Mishra v. Union of India & Ors.***, 2010 SCC OnLine Pat 2531, submits that if on the face of the record, the respondents have passed an erroneous order, a Writ Petition would be maintainable.

14. We, in the facts of the present case, do not find any ground being made out by the petitioner for bypassing the statutory alternate remedy provided under the Armed Forces Tribunal Act.

15. We, therefore, refuse to entertain the present petition on the ground of delay and laches as far as the challenge to the Order dated 20.02.2020 of the learned Tribunal is concerned, and on the ground of availability of an alternative efficacious remedy for the petitioner, as far as the challenge to the communications dated 23.11.2022 and 04.03.2024 is concerned.

16. The petition, along with the pending application, stands disposed of in the above terms. It shall be open to the petitioner to avail of his alternate remedies in accordance with law.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 10, 2025/ab/kp/IK

Click here to check corrigendum, if any