



2025:DHC:982-DB



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

Date of decision: 17.02.2025

+ W.P.(C) 1970/2025

CDR ASHESH KUMAR DUBEYPetitioner

Through: Mr. Nikhil Purohit and Mr.
Jatin Lalwani, Advs.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Vivek Sharma, SPC with
Mr. Gopesh Jindal and Ms.
Prerna Singh, Advs. and
Commander Vikrant Singh,
Indian Navy.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 9257/2025, CM APPL. 9258/2025

1. Allowed, subject to all just exceptions.

W.P.(C) 1970/2025 & CM APPL. 9256/2025

2. This petition has been filed by the petitioner, challenging the Order dated 10.01.2025 passed by the learned Armed Forces Tribunal, Principal Bench, New Delhi (“Tribunal”) in Original Application (“OA”) No. 5299/2024, titled *Cdr Ashesh Kumar Dubey v. Union of India & Ors.*, by which the learned Tribunal has rejected the prayer the petitioner for an interim direction to the respondent to continue



with the services of the petitioner, while observing as under:-

“7. Accordingly, at this stage, we find no reason to stay the discharge of the applicant. The respondents are at liberty to discharge the applicant but it is made clear that his discharge will be provisional and subject to the final decision of the OA. The respondents are granted four weeks' time to file a detailed counter affidavit. Rejoinder, if any, may be filed within two weeks thereafter.”

3. It is the case of the petitioner that the petitioner was commissioned in the Indian Navy as an officer in the Education Bench in the rank of Sub-Lieutenant as a Short Service Commission (“SSC”) Officer on 18.01.2011. He was entitled to be considered for a permanent commission in accordance with the policy decisions dated 26.09.2008 and 03.12.2008.

4. The petitioner claims that he had duly submitted his application on 22.06.2018, expressing his willingness to be continued in service by considering him for a permanent commission. However, he was arbitrarily not considered by the Selection Board in the result declared in June, 2019. The petitioner subsequently submitted his willingness for a permanent commission for the second time on 24.10.2019. He submitted his willingness for the third time on 26.06.2020.

5. The petitioner claims that he was placed in a low medical category from 15.12.2017 to 21.09.2020, because of which he was not given the extension of service, however, in a Re-categorisation Board proceedings constituted in September, 2020, he was declared fit under the S1A1 medical category, on 21.09.2020. As a result, he was given



an extension of service for a further period of two years, which was later extended for a further period of two years.

6. The petitioner, however, in the Selection Board held in December, 2020, was considered once in the first look with the 2008 batch and in the second look with the 2012 batch, but was not granted a permanent commission.

7. The petitioner challenged his consideration along with the 2008 batch, which he claims being senior to him would have had a better chance over the petitioner for the grant of a permanent commission.

8. The petitioner placing reliance on the direction issued by the learned Tribunal in its judgment dated 27.09.2024 passed in OA No. 433/2016 titled *Lt Cdr Ravinder Pal Singh v. Union of India and Ors.*, filed the above OA before the learned Tribunal on 18.12.2024, praying for a direction to the respondents to consider the petitioner for the grant of a permanent commission by adopting the same policy and methodology which was done with respect to the 2009 batch, and to grant him consequential benefits.

9. As the petitioner was scheduled to be released from service on 17.01.2025, he also prayed for the interim orders from the learned Tribunal for directing the respondents to continue him in the service.

10. It is the interim prayer made by the petitioner, which was rejected by the learned Tribunal by way of the Impugned Order.

11. The learned counsel for the petitioner reiterates that in terms of the judgment of the learned Tribunal in *Lt Cdr Ravinder Pal Singh* (supra), the respondents are to draw a policy for the grant of a



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permanent commission, and to reconsider the case of all eligible candidates who were not selected in the December 2020 Selection Board consideration. He submits that the petitioner, being one of them deserves a reconsideration, however, the respondents have not implemented the said order till date.

12. He further submits that certain officers, who were not granted the benefit in terms of the judgment in *Lt Cdr Ravinder Pal Singh* (supra) by the learned Tribunal, have approached the Supreme Court by way of Civil Appeals and *vide* Orders dated 16.12.2024 and 20.12.2024, passed in Civil Appeal Diary nos. 53802/2024 and 54464/2024, respectively, the Supreme Court has directed the respondents to continue the appellants therein in service. He submits that the learned Tribunal should have extended the same relief to the petitioner as well.

13. We have considered the submissions made by the learned counsel for the petitioner.

14. As noted herein above, the petitioner has approached the learned Tribunal challenging his non-selection in the Selection Board proceedings, held in December, 2020, only on 18.12.2024, that is, after a gap of almost four years. For seeking his relief, the sole reliance of the petitioner is on the judgment of the learned Tribunal passed in *Lt Cdr Ravinder Pal Singh* (supra). Additionally, the petitioner also stands released from service on 17.01.2025 and therefore, any order passed today, as prayed for by the petitioner, would in fact be to restore the *status quo ante*. In the facts of the



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present case, we do not find the said case to be made out by the petitioner. The learned Tribunal has already protected the petitioner by observing that his discharge will be provisional and shall be subject to the final decision of the OA filed by him. The matter is also listed before the learned Tribunal on 28.02.2025. We expect that the learned Tribunal would consider the OA filed by the petitioner expeditiously.

15. For the above reasons, we do not find any merit in the present petition. The same is, accordingly, dismissed.

16. We make it clear that the rejection of the present petition shall have no effect on the consideration on merits by the learned Tribunal of the OA filed by the petitioner .

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 17, 2025/ss/kp/DG

Click here to check corrigendum, if any