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

CNR No. DLHC010486882026

Date of decision: 15.10.2026

+ **W.P.(C) 14956/2026 & CM APPL. 70133/2026**

SHAGUN MALIK

.....Petitioner

Through: Mr. Jitender Kumar, Mr. Roshan Lal
Goel, Ms. Anju Gupta, Ms. Sushma
Priyadarshna, Mr. Ashish Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Akshat Agrawal, SPC with Mr.
Raj Karn, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers :-

“a) Issue an appropriate writ, order or direction in the nature of Certiorari quashing Communication No. 371/Adm/Med Seat/Vol-I dated 29.09.2026 issued by Respondent Nos. 2/3 declining the Petitioner's claim under Priority-IV;



- b) Issue an appropriate writ, order or direction in the nature of Mandamus directing the Respondents to consider and determine the Petitioner's Priority-IV claim after examining the complete service and medical record of No. 1040644 IX Naik Vikas Malik (Retd.), his precise period of embodied service, Letter No. 34456/GS/TA-3 dated 17.01.2011 and underlying applicable instructions, his Permanent Low Medical Category/retention history, the precise legal provision and circumstances governing his release, and the applicable Priority-IV policy/SOP; and, if the prescribed Priority-IV conditions are found satisfied, accord consequential benefit subject to merit and other applicable admission requirements;*
- c) IN THE ALTERNATIVE, direct the competent Respondent authority to undertake a fresh, reasoned and time-bound determination of the Priority-IV claim within such period as this Hon'ble Court may deem appropriate having regard to the ongoing admission process;*
- d) Pending disposal of the Writ Petition and/or fresh determination, direct the Respondents to provisionally protect and preserve the Petitioner's candidature in the ongoing MBBS/BDS Central Pool allotment process for Academic Session 2026-27, subject to further orders and without creation of equity;*
- e) If necessary for preservation of the subject matter, direct the concerned Respondents to keep available one*



appropriate MBBS/BDS Central Pool seat, subject to further orders, merit and applicable admission requirements; and...”

2. The brief facts of the case are that the petitioner is a candidate for NEET (UG) 2026 bearing Roll No. 4409107589 and is the son of No. 1040644IX Naik Vikas Malik (Retd.), who served in 114 Infantry Battalion (Territorial Army) JAT.
3. During his military service, the petitioner’s father sustained an injury while on military duty in Samba Sector, Jammu & Kashmir, and was thereafter placed in Permanent Low Medical Category A2(P). His disability was subsequently assessed at 30% for life and was recorded as attributable to military service. Thereafter, the Service Pension along with Disability Element was sanctioned.
4. The Zila Sainik Board, Muzaffarnagar, after verification of the relevant records, issued an Eligibility Certificate dated 28.07.2026, recording the Petitioner’s claim under Priority-IV.
5. However, upon document verification on 29.09.2026, the Respondents declined Priority-IV and treated the Petitioner under Priority-VI, principally on the ground that his father had been released from service “at his own request” and not boarded out.
6. Hence, the present petition has been filed.
7. Mr. Gupta, learned counsel for the petitioner, draws my attention to the relevant rules in this regard, dated 17.01.2011, which read as under:



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Addl Dte Gen Territorial Army
General Staff Branch
IHQ of MOD (Army)
1st Block, Church Road
New Delhi - 110001

34456/GS/TA-3

17. Jan 2011

TA Group Headquarters

Southern Command
Eastern Command
Western Command
Central Command
Northern Command
Dir DSC, HQ South Western Command

**DISPOSAL OF PERMIT LOW MEDICAL CATEGORY JCOs
AND OR : TERRITORIAL ARMY**

1. Ref this Dte letter No 34456/GS/TA-3 dt 24 Oct 2008 and GOI, MoD letter No 34456/GS/TA-3/374/US/D(GS-III)/2008 dated 05 May 2008.
2. The case for retention of LMC TA pers was taken up in Dec 2005 with MoD based on the AG's letter No B/10122/LMG/Org 2(MP) (c) dated 10 Apr 97 as amended vide AG's Br letter No B/10122/LMG/Org 2(MP)(c) dated 12 May 97 (copies encl). The AG's Br letter under ref provides for retention of only those permit LMC Regular Army pers who had become LMC due to casualties suffered during the activities listed below:-
 - (a) Battle casualties (War wounded personnel)
 - (b) Training/Exercises/Operational Alerts.
 - (c) Field Firing/Battle inoculation/Range accidents.
 - (d) Aid to civil authority.
 - (e) Assistance in natural calamities.
 - (f) Performance of bonafide military duty.
3. The retention of LMC pers of reg army in form of AG's Br letter refrat Para 2 above had been gtd primarily till the indl achieved pensionable service, even if the indl got promoted in terms of Para 2 of AG's Br letter No B/10122/LMG/Org 2 (MP) (c) dt 12 May 97.
4. The sanction to retain perm LMC TA pers was also accorded vide MoD letter No 34456/GS/TA-3/374/US/D(GS-III)/2008 dated 05 May 2008 based on AG's Br letter referred at Para 2 above. The contents of the letter amply clarifying who can be retained and the conditions.



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5. There are no sheltered appts available in TA units since TA units/sub units are embodied under rule 33 for only op duties.

6. In view of above the retention is to be granted to only those LMC TA JCOs/OR who are LMC due to activities listed at Para 1 (a) to Para 1 (f) of MoD letter No 34456/GS/TA-3/374/US/D(GS-III)/2008 dated 05 May 2008.

7. TA JCOs and OR who become LMC after completing more than 15 yrs of embodied service or complete 15 yrs of total embodied service subsequent to grant of retention will have to be disch.

8. For deciding the eligibility for retention the attributability factor is required to be clearly brought out by med auth on AFMSF-15 (Ver 2006) duly supported by following docu :-

- | | | |
|--------------------------------------|---|---|
| (a) In BC cases | - | BC sitreps and approval of BC by Fmn Cdr. |
| (b) In non BC (Physical cas) cases - | | Injury report sp by C of I duly approved by appropriate auth as given out in GOI, MoD letter No 1(2)/2002/D (Pen-C) dt 01 Sep 2005. |

(Commanding Offrs should info all facts and circumstances leading to the cas in writing to the med auth incl the previous emb details and med status of the indl)

9. In future docu asking for retention in case of permnt LMC TA JCOs should be fwd to TA Dte through respective TA Gp HQs while docu pertaining to TA OR should be disposed off at TA Gp HQs.

10. From the dt of issue of this letter permnt LMC TA JCOs and OR will be dealt with as under :-

- (a) Fresh permnt LMC JCOs and OR will be dealt with as per clarification issued vide Para 2 of this letter.
- (b) Existing permnt LMC JCOs and OR who have been gtd retention but do not meet conditions as covered under Para 2 of this letter will be disch.
- (c) Existing permnt LMC JCOs and OR who have been gtd retention and are meeting the conditions as given at Para 2 of this letter will be retained but their retention will be dictated by GOI, MoD letter No 34456/GS/TA-3/374/US/D(GS- III)/2008 dated 05 May 2008.


ATTESTED PHOTOCOPY

...3/-

8. He particularly relies on paragraph Nos. 2, 5, 7 and 10 (d).



9. The application of the father of the petitioner dated 12.07.2021 made to the Commanding Officer is also relevant and reads as under:

To,

The Commanding Officer,
114 Infantry Battalion (Territorial Army), JAT,
Through 56 APO.

Subject: Application regarding retirement from the Territorial Army.

Sir,

1. I, No. 10406441X Naik Vikas Malik, am serving under you in 114 Infantry Battalion (Territorial Army). I was enrolled on 08 August 2005. Since November 2016, I have been placed in medical category LMC A-2 (Permanent). Because of this, I am facing difficulty in performing military service. I am, therefore, unable to continue serving in the Army.
2. I, therefore, humbly request that, taking my problem into consideration, you may kindly grant me voluntary retirement from service. I shall remain obliged to you for life.
3. I wish to be released from the Army because of my physical problem. There is no pressure from anyone in this.

Witnesses:

- (i) [Signature] (JC-53915W, Subedar Rajdeepak)
- (ii) [Signature] (No. 10406231XBHM, Mahendra Kumar)

Yours obediently,
Soldier



2026:DHC:9392

**Signature: Vikas Malik****No.: 10406441X****Rank: Naik****Name: Vikas Malik****Date: 12 July 2021**

RECOMMENDED / NOT RECOMMENDED BY ADJT**Station: C/o 56 APO****Dated: 12 Jul 2021****[Signature]****Major / Lt Col****Adjutant, 114 Inf Bn (TA)****JAT**

SANCTIONED / NOT SANCTIONED BY COMMANDING OFFICER**Station: C/o 56 APO****Sanctioned****Dated: 12 Jul 2021****[Signature]****(TJ Ajith Kumar)****Colonel****Commanding Officer**

10. Mr. Agrawal, learned counsel for the respondents, *per contra*, states that the father of the petitioner has rightly been categorized in Priority VI. He states that the father of the petitioner was never boarded out by the authorities and took voluntary retirement. He draws my attention to the relevant rules in this regard, which read as under:



9. **PRIORITY- IV Wards of Disabled In Service and Boarded out with Disability Attributable to Military Service**

Eligible

(i) All Armed Forces Personnel who were found medically unfit for further service due to disability occurred in service conditions (as mentioned in category 'B' and 'C' of para 4.1 of Ministry of Defence, Govt of India letter No 1 (2) 97/I/D (Pen-C) dated 31 Jan 2001 (Appx 'C') and subsequent amendments) and are invalid out from service as per Army Rule 13 3 III (iii) after having Invalid Medical Board and are in receipt of Disability Pension consisting of Service Element and Disability Element as per Para 7 (Appx 'C') are eligible for Priority-IV.

(ii) All Armed Forces Personnel who were found medically unfit for certain duties due to disability occurred in service conditions (as mentioned in category 'B' and 'C' of para 4.1 of Ministry of Defence, Govt of India letter No 1 (2) 97/I/D (Pen-C) dated 31 Jan 2001 (Appx 'C') and subsequent amendments) and are retained in service after being downgraded as (LMC) due to disability by the competent medical authorities and subsequently invalided out of service under Army Rule :

(aa) 13 3 III (iii) (a) (i)- no sheltered appointment is available in the unit (LMC cases only),

(ab) 13 3 III (v) - only on LMC ground which is attributable to or aggravated by military service,

(ac) Are in receipt of Disability Pension consisting of Service Element and Disability Element are eligible for Priority-IV.

(iii) All Armed Forces Recruits who were invalid out from service as per Army Rule 13 3 IV after having Invalid Medical Board and are granted Medical/Disability Pension and ESM status as per DESW, Ministry of Defence letter 12/I/2005/D(Res) dated 01 Feb 2006 (Appx 'D') are eligible for Priority-IV.

Documents to be checked :-

(a) Service book issued by Records to check

(i) Service Particulars of Armed Forces Personnel

(ii) Length of service

(iii) Clauses of Army Rule under which he/she is invalided out from service.

(iv) Details of family

(b) Invalidment Medical Board proceedings documents for checking reason for invalidment and attributability of disability



(c) PPO initial and subsequent PPO to check whether individual is getting disability pension consisting of service element and disability element. (Service element will be granted only if his/her disability is attributable/aggravated to military service).

(d) ESM I-card issued by RSBs/ZSBs to check ESM status.

(e) ECHS Card, Aadhaar Card, 10th class certificate (of children) and Dependent card.

Not-Eligible

As per letter DESW, MoD letter No. 6(1)/2017/D (Res.II) dated 21 May 2018 (Appx 'A') who should be **not entitled to avail** the benefits under Priority-IV (i.e. Wards of disabled in service and boarded out from the service with disability Attributable to Military Service) are mentioned below :-

(i) All Armed Forces Personnel who were retired/discharged from service on fulfilling the conditions of his enrolment or having reached the stage at which discharge may be enforced as per Army Rule 13 3 III (i) and entitled to disability element as per Para 8 (Appx 'C') are not eligible for Priority-IV.

(ii) All Armed Forces Personnel who were retired/discharged from service on completion of period of army service only, there being no vacancy in the Reserve as per Army Rule 13 3 III (ii) are not eligible for Priority-IV.

(iii) All Armed Forces Personnel who were retired/discharged from service at his own request before fulfilling the conditions of his enrolment as per Army Rule 133 III (iv) are not eligible for Priority-IV

(iv) All Armed Forces Personnel who were retired/discharged from service in any circumstances having not attributable and not aggravated (NANA) shall not be eligible for Priority-IV.

10. PRIORITY-V Wards of Ex-Servicemen and serving personnel who are in receipt of Gallantry Awards

Eligible

1. All the Armed Forces personnel Serving/Ex-Servicemen who are in receipt of Gallantry Awards during their service, and their names are reflected in Gazette Notification published by President/Govt of India their wards are eligible to claim Priority-V as per letter DESW, MoD letter No. 6(1)/2017/D (Res.II) dated 21 May 2018(Appx 'A').

2. All the Armed Forces personnel will be granted Priority-V as per the Inter-Se-Precedence of Gallantry Award mentioned in DESW, MoD letter No. 6(1)/2017/D (Res.II) dated 21 May 2018(Appx 'A'). for example if armed forces personnel is in receipt of Sena Medal (Gallantry), the priority will be written as :- priority (v) vii Sena Medal (Gallantry).

11. He states that a perusal of the paragraph No. 1 and 3 of the not-eligible categories shows that the armed forces personnel, who were retired/discharged from the service at their own request, are not



eligible under Priority IV. He further states that the armed forces personnel, who were retired/discharged on fulfilling the conditions of enrolment or having reached the stage of discharge, are also not eligible.

12. In my view, the petitioner's father was serving in the territorial army. The scheme dated 17.01.2011 is specific to the personnel appointed under the territorial army and therefore, applies to the petitioner's case.
13. It is also not in dispute that the injury sustained by the father of the petitioner occurred in the performance of a bona fide military duty.
14. A perusal of paragraph 7 shows that the soldiers who become Lower Medical Category ("**LMC**"), after completing more than 15 years of embodied service, or on completion of 15 years of total embodied service subsequent to grant of retention, will have to be discharged.
15. The respondents have no discretion in this regard as paragraph 7 provides for the discharge of such soldiers who have become LMC and have completed more than 15 years of embodied services. Further, paragraph 5 records that there are no sheltered appointments available in the Territorial Army Units.
16. The father of the petitioner, admittedly, became LMC and had completed more than 15 years of embodied service in the Territorial Army.
17. Hence, even if the application for voluntary retirement had been moved/not moved, the same was immaterial as in terms of paragraph 7, and the father of the petitioner was compulsorily required to be discharged.



18. Hence, it is the aforesaid paragraph which will be applicable to the petitioner and not those relied upon by Mr. Agrawal, learned counsel, of SOP dated 01.07.2020.
19. That being so, the basis for categorising the petitioner under Priority-VI is not borne out in view of the discussion above.
20. The judgment in W.P.(C) 4338/2025 in the matter of *Master Athrava Trupathi & Anr. v. Union of India & Ors.* dated 24.02.2026, is also distinguishable on facts of the present case, as the personnel in the concerned case did not belong to the Territorial Army and the scheme dated 17.01.2011 was not in issue.
21. Consequently, the present petition is allowed. The petitioner shall be treated as belonging to Priority-IV and shall be so accommodated against a seat, subject to availability. The respondents shall communicate the availability of a seat to the petitioner within 10 days from the date of uploading of this Order.
22. With these directions, the petition is disposed of.

JASMEET SINGH, J

OCTOBER 15, 2026/sp
(corrected and uploaded on 17.10.2026)