

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 35 OF 2021
(@ (Diary No.15101/2020))

SUBEDAR JAY KISHOR MISHRA

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

Heard learned counsel for the appellant.

Leave to appeal is granted.

The appellant was downgraded to Low Medical Category (LMC) w.e.f. 04.07.2017 for Diabetes Mellitus Type II. He was discharged on medical grounds w.e.f. 13.11.2019. The order of discharge was challenged by the Appellant before the Armed Forces Tribunal. The Armed Forces Tribunal dismissed the Original Application, aggrieved by which the above appeal is filed.

The Appellant contended before the Tribunal that he was promoted as Subedar on 01.05.2019 as he was found to be in acceptable medical category and is entitled to continue till 31.08.2026. On behalf of the Respondents, it was contended before the Tribunal that the Appellant was promoted as Subedar on 01.05.2019 as he fulfilled the criteria for promotion. However, as there is no sheltered

appointment available for his retention, he was discharged on medical grounds in the interest of organizational efficiency of an operational unit. The Respondent further contended that Ladakh Scouts has five battalions. Four battalions out of the five are deployed in the high-altitude area in Ladakh whereas only the 5th battalion is rotated at Chandi Mandir, a peace station.

Personnel in lower medical category of the 5th battalion being posted to the battalion in Chandi Mandir adversely affects the organizational efficiency of the Unit. The Tribunal accepted the submissions on behalf of the Respondents. We are in agreement with the Tribunal.

For the aforementioned reasons, the appeal is dismissed. Pending application(s), if any, shall stand disposed of.

.....J
(L.NAGESWARA RAO)

.....J
(NAVIN SINHA)

.....J
(INDU MALHOTRA)

NEW DELHI;
07th JANUARY, 2021

ITEM NO.6 Court 7 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s).15101/2020

(Arising out of impugned final judgment and order dated 20-03-2020
in OA No.2045/2019 passed by the Armed Forces Tribunal)

SUBEDAR JAY KISHOR MISHRA APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT(S)

(IA No.74774/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.74777/2020-LEAVE TO APPEAL U/S 31(1) OF THE
ARMED FORCES TRIBUNAL ACT, 2007)

Date : 07-01-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Major K. Ramesh, Adv.
 Ms. Archana Ramesh, Adv.
 Mr. Vibhuti Sushant Gupta, Adv.
 Mr. Narender Kumar Verma, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave to appeal is granted.

The appeal is dismissed in terms of the Signed
Order. Pending application(s), if any, shall stand
disposed of.

(Geeta Ahuja)
Court Master

(Beena Jolly)
Court Master

(Signed Order is placed on the file)