

**COURT No.2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

27.

OA 1612/2019

**Sep Braj Narayana Tiwari
Versus**

... Applicant

Union of India & Ors.

...Respondents

For Applicant : Mr. V.S. Kadian, Advocate

For Respondents : Mr. S.D. Windlesh, Advocate

CORAM:

**HON'BLE MS. JUSTICE SUNITA GUPTA, MEMBER (J)
HON'BLE LT GEN PHILIP CAMPOSE, MEMBER (A)**

**O R D E R
30.09.2019**

Feeling aggrieved by the order dated 23rd August 2019 whereby the applicant has been ordered to be discharged on 3rd May 2018, present OA has been filed.

Heard. Admit.

Issue Notice to the respondents. Mr. S.D. Windlesh, Advocate accepts notice on behalf of the respondents. He seeks time to take necessary instructions.

Counsel for the applicant submits that since the applicant is going to be discharged today itself, therefore, interim prayer has been made seeking stay on the discharge order.

It is the case of the applicant that he was enrolled in DSC on 16th January 2012. He was placed in low medical category w.e.f. April 2012.

It is the case of respondents that as per policy laid down vide Adjutant General's Branch letter dated 3rd May 2011 and IHQ of MoD(Army) letter dated 20th November 2018, permanent low medical category personnel will be discharged

from service at any time during service in accordance with the statutory provisions of Army Rule 13(3) item III (iii) (a) (i) as no sheltered appointment is available in DSC.

Counsel for the applicant submits that out of the contractual period of 10 years, the applicant had completed 08 years, 05 months and 14 days and left with 01 year, 06 months of service on completion of 10 years of service as on 30th September 2019. He should be allowed to complete 10 years of service.

Having heard learned counsels for the parties at this stage, we do not deem it appropriate to grant stay of the discharge order. However, it is made clear that discharge of the applicant, if any, will be subject to the outcome of this OA.

Counter affidavit has already been filed by the respondents. Applicant, if so desire, may file rejoinder within four weeks.

Re-list on **30th March 2020.**

[JUSTICE SUNITA GUPTA]
MEMBER (J)

(LT GEN PHILIP CAMPOSE)
MEMBER (A)

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