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**IN THE ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

TA/437/09

MAJ. RAJ KUMAR

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SH. S.S.KULSHRESTHA, MEMBER

HON'BLE SH. S.S.DHILLON, MEMBER

ORDER

Dated : 05.03.2010

Present: Mr. Satish Bakshi, Advocate for the Petitioner.
Lt Col Naveen Sharma with Ms. Jagriti Singh,
Advocate for the respondents.

It is submitted on behalf of the respondents that pursuant to the order of this Tribunal dated 27.1.2010, the matter is under consideration and some more time be allowed so that appropriate orders may be passed. However, counsel for the petitioner has submitted that the Delhi High Court had not stayed the confirmation proceedings and this fact could not be brought to the notice of this Tribunal on the earlier occasion. By the order dated 21.10.2005, the Delhi High Court ordered that "the petitioner shall cease to be on the rolls of the Army with effect from

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1.11.2005". In view of the above order, it is submitted that no useful purpose would be served if promulgation is made on the basis of the direction of this Tribunal. Suffice to mention that in view of the provisions contained in Section 153 of the Army Act, unless promulgation of the order is made, no validity can be attached to the findings of the GCM. The petitioner will not in any way be aggrieved by those findings which are awaiting confirmation, as a result of which the petition itself will not be maintainable.

2. It is to be noted that the Delhi High Court, by its order dated 21.10.2005, allowed the respondents to proceed with the GCM proceedings. It is submitted on behalf of the respondents that if the order of the Delhi High Court is taken in its totality, it would mean that though there is the order that the petitioner shall cease to be on the rolls of the Army, but the GCM proceedings would continue even to the stage of confirmation. This itself would imply that the Delhi High Court did not prefer to close the GCM proceedings. Till the continuance of the GCM proceedings, which also includes promulgation, ceasing the petitioner from the rolls of the Army would be construed for limited purposes i.e. till the final outcome of the GCM proceedings.

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3. In view of the above, the respondents are directed to take appropriate steps in the matter of promulgation of the order within two weeks. List this matter on 30.3.2010.

S.S.DHILLON
(Member)

S.S. KULSHRESTHA
(Member)

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**IN THE ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

TA NO. 437 OF 2009
(WRIT PETITION (CIVIL) NO.4600 OF 1998)

MAJ. RAJ KUMAR

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

**HON'BLE SH. S.S.KULSHRESTHA, MEMBER
HON'BLE SH. S.S.DHILLON, MEMBER**

ORDER

Dated : 19.04.2010

Present : Mr. Rajat Bali, Advocate for the petitioner.
Ms. Jagriti Singh, Advocate with Lt. Col. Naveen Sharma for the respondents.

In the context of the order dated 30.3.2010, it is submitted by counsel for the petitioner that a new cause of action has accrued to the petitioner and, therefore, he be permitted to withdraw the TA with liberty to file a fresh petition. He has also submitted that till the filing of the fresh petition, direction be given not to arrest the petitioner. In view of the submission made by the counsel for the petitioner, the T.A is dismissed with liberty to file a fresh petition. For four weeks, the arrest of the petitioner pursuant to the order of the GCM shall not be given effect to.

Copy of this order be handed over to both the sides.

**S.S.DHILLON
(Member)**

**S.S.KULSHRESTHA
(Member)**