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COURT NO. 2, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

OA No.231/12 with M.A.. No.425/12

IN THE MATTER OF:

Brig Ajay Anand

.....Petitioner

VERSUS

Union of India & Ors.

.....Respondents

Dated: 17.09.2012

Present: Mr. S.S. Pandey, Advocate for petitioner
Mr. Anil Gautam, Advocate for respondents alongwith Lt.
Col. Arun Sharma on behalf of the Respondents

Heard learned counsel for the parties.

After starting to hear the matter on merits, in our view, the matter can be better disposed of by giving a direction to the Court of Inquiry to once again hear the petitioner, and for that the Convening Authority may issue necessary orders for re-convening the Court of Inquiry.

We are given to understand that the petitioner was given opportunity under Rule 180, which according to the respondents, the petitioner did not avail, while according to the petitioner, he did not either have it, or could not properly exercise it, and when he got wiser, he was denied on the ground that there is no provision of law for hearing him again.

It is only in order to overcome that legal difficulty in the way of petitioner being heard again, in the peculiar circumstances of the case, details

whereof we do not stand advised to narrate here, we feel it appropriate to direct the Convening Authority to convene the Court of Inquiry, only to hear the petitioner again, on the aspects that may be projected by him, and consider his submissions dispassionately, objectively and without being in any manner obsessed by earlier observations or by his having approached this Tribunal.

So far DV Ban is concerned, it is understood that petitioner would not press for his promotion consequent upon his empanelment. However, we need not to make any direction in that regard, either to continue the DV Ban or to lift it, in view of the petitioner's undertaking not to claim for his promotion, and as our making any observation, may not be taken to be expression of any opinion on our side.

The petitioner should submit his representation within a period of one week of re-assembling/COI. The COI will obviously proceed expeditiously. The petition accordingly stands disposed off with the above observations, directions and recording of undertaking.

M.L. NAIDU
(Administrative Member)

N.P. GUPTA
(Judicial Member)

Dated: 17.09.2012

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