

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

18.

O.A. No. 547 of 2011  
With M.A. No. 507 of 2011

Recruit Neeraj Kumar

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. K. Ramesh and Ms. R. Archana, Advocates.  
For respondents: Mr. Aakash Pratap, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. S.S. DHILLON, MEMBER.

ORDER  
08.11.2012

1. Petitioner by this petition has prayed that the Respondents may be directed to medically re-examine the Petitioner in terms of Para 143 of Defence Services Regulations and in light of the judgment given by the Hon'ble Delhi High Court in the case of **Constable Kapil Dev v. Union of India & Ors. (W.P.(C) No. 19178 of 2008 decided on 10<sup>th</sup> July 2008)** and the decision of this Court in the case of **Lakhwinder Singh v. Union of India & Ors. (O.A. No. 373 of 2010 decided on 28<sup>th</sup> April 2011)**.
2. Petitioner was found medically fit and was enrolled on 4<sup>th</sup> March 2004 in the Corps of Electrical and Mechanical Engineering. Due to oral submucous Fibrosis he was medically boarded out on 22<sup>nd</sup> June 2004. From 2010 to 2011, the Petitioner underwent a series of private medical tests and was finally found fit by the Dental Department, AIIMS. Based on this new matrix of facts he could be medically re-

examined by the Dental Department of Base Hospital Delhi Cantt and if found fit he could be re-enrolled back in service. But, in fact, Petitioner from 22<sup>nd</sup> June 2004 till 2010 did not protest. It is only in 2010 and 2011 that he took up the matter with the AIIMS and after tests and other treatment he alleged that he is now medically fit but by this time he has already become overage. Therefore, no useful purpose will be served by sending him back to the Army Medical Board and if they found him fit to be reconsidered for service then this whole exercise would be futile because he has already become overage. Therefore, he himself is responsible for this delay whereby he has become overage.

3. Consequently, there is no merit in this petition and same is dismissed with no order as to costs.

✓ **A.K. MATHUR**  
(Chairperson)

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

**New Delhi**  
**November 8, 2012**  
dn/pd