

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

30.

MA 2051/2025 in OA 587/2025

Nb Sub Prakash Kumar	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. S. S. Pandey, Advocate with Mr. Piyush Thakran, Advocate
For Respondents	:	Mr. Rahul Kumar, Advocate with Mr. S. S. Chugh, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT. GEN. C. P. MOHANTY, MEMBER (A)

ORDER
09.05.2025

MA 2051/2025

This MA has been filed for listing of the OA 587/2025 on an earlier date and for considering the interim prayer of the applicant.

2. Perused the record of OA No. 587/2025. The notice in this OA was issued to the respondents on 03.03.2025 and thereafter, they were granted time up to 24.03.2025 to file their reply atleast to the prayer for interim relief within two weeks. However, on 24.03.2025, the matter could not be taken up as the bench did not assemble. The case was adjourned to 21.04.2025 when the learned counsel for the respondents prayed for four weeks' time to file the counter affidavit. The matter is now listed on 11.07.2025. However, it is the case of the applicant that the Army Medical Corps has recommended his case for promotion but the promotion is being denied to him only on the ground that he is

facing a COI. Shri S. S. Pandey, learned counsel for the applicant invites our attention to the clarifications sought for from the Headquarters Delhi Area and the communication made by the Headquarters Army to the Base Hospital, Delhi Cantt vide Annexure A-7 on 10.02.2025 indicating that the applicant was involved in the COI as a witness, the COI is yet to be finalized and as on date no disciplinary case was pending against the applicant. The date in question of this letter is 10.02.2025. Prima facie, this clearly indicates that as on 10.02.2025 no COI was pending against the applicant and as per the records the promotion to the applicant was due on 01.02.2025.

3. That being so, applying the principles of law laid down in the case of Union of India Vs. K. V. Jankiraman P (1991 Vol 4 SCC 109) as the COI against the applicant had not commenced on 01.02.2025, there was no CoI pending against the applicant as on 01.01.2025 and even on 10.02.2025 it has not commenced, there was no reason as to why the promotion order issued in favour of the applicant should not be implemented.

4. Respondents to showcause as to why an interim direction in the matter should not be issued in case, the respondents do not give any plausible reasons, we may proceed to pass an interim order on the next date.

5. Reliance is also placed by Shri S. S. Pandey on an order passed by this Bench on 08.01.2024 in OA No. 475/2016 Ex Sub (Amb Asst) Ram Pratap Vs. Union of India & Ors., wherein the

same principle as indicated hereinabove has been reiterated by this Bench.

6. MA stands disposed of.

OA 587/2025

List the matter again on 16.05.2025 under Court's order category.

A copy of this order be provided DASTI to learned counsel for both the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT. GEN. C. P. MOHANTY]
MEMBER (A)

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