

**RESERVED**  
**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No 793 of 2023**

Thursday, this the 23<sup>rd</sup> day of Jan, 2025

**Hon'ble Mr. Justice Anil Kumar, Member (J)**

**Hon'ble Vice Admiral Atul Kumar Jain, Member (A)**

JC-491101M Ex Sub Bhim Singh, son of Shri Ramji Lal, aged about 52 years of the JAT Regiment Centre, Bareilly and presently resident of Shiv Mandir Colony (Near Govt Primary School) Bharataul, PO – PAC (Nakatia), District – Bareilly (UP) - 243223.

..... Applicant

Ld. Counsel for the Applicant : **Shri Ashok Singh**, Advocate  
**Shri Vikas Singh Chauhan**, Advocate

Versus

1. Union of India, through its Secretary, Govt of India, Ministry of Defence, New Delhi-110011.
2. Chief of the Army Staff, IHQ of MOD (Army), DHQ PO New Delhi-110011
3. Ceremonial & Welfare Directorate/CW-2, Adjutant General's Branch, IHQ of MOD (Army), South Block, DHQ PO New Delhi-110011
4. Commanding Officer, 4 JAT Battalion, PIN-911204, C/O 56 APO
5. OIC, Records the JAT Regiment, PIN-900496, C/O 56 APO (UP)

..... Respondents

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**  
Senior Central Govt Counsel.

## ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- “(a) To quash/set aside the impugned order dated 11<sup>th</sup> May 2023 passed by the Adjutant General, IHQ of MOD (Army), New Delhi as a Annexure No. A-1 with compilation No. 1 to this Original Application and passed the further order or direction directing to the Respondents to confirm the Honorary Commission of the applicant w.e.f. on the occasion of Republic Day 2022 along with all consequential service benefits being a eligible candidates.*
- (b) Issue an appropriate order or direction as this Hon’ble Tribunal may deem fit and proper in the demand of justice.*
- (c) Issue an order or direction awarding the cost of the application together with all legal expenses incurred by the applicants.”*

2. Brief facts of the case are that applicant was enrolled in the Army on 28.02.1992 and was discharged from service on 28.02.2022 after rendering 30 years of service. During full service tenure, he had earned four successive promotions i.e. Naik, Havildar, Naib Subedar and Subedar. Applicant also attended all mandatory courses with good gradings. He had served in Counter Insurgency Operations (Field Area), Counter Insurgency Modified Field Area, High Altitude and UN-Congenial Climate Area, High Altitude Area and Modified Field Area. He has also been awarded various medals for his outstanding career. He has achieved outstanding grade in all his Annual Confidential Reports. Applicant was fulfilling all the conditions for award of Honorary Commission but the same was not granted though he was considered for grant of Honorary Commission as Lieutenant on active service during Independence Day 2021 and

Republic Day 2022. The applicant had performed Officiating Subedar Major duty for a period of five months in the Battalion being very suitable and senior Subedar. JC-491205N Subedar (Hony Captain) Om Prakash Nayal of the applicant's Unit who was very junior to the applicant and was having less service profile than the applicant has been conferred with the Honorary Commission rank whereas he has been denied. Aggrieved by non grant of Honorary Commission, the applicant has filed present Original Application.

3. Learned counsel for the applicant submitted that applicant had rendered outstanding service of more than 30 years and earned four promotions from Naik to Subedar. He had performed duty of officiating Subedar Major for five months being very suitable and senior most Junior Commissioned Officer in the Battalion. He had achieved outstanding gradings in Army Courses i.e 'B' grading in Platoon Commander (JN) and 'C' grading in Junior Leader Course. He had served in Counter Insurgency Operations (Field area) from 26.03.1993 to 22.06.1995, 19.09.1997 to 05.11.1997, 18.05.1999 to 06.11.1999, 23.11.1999 to 10.09.2001, 19.12.2001 to 15.03.2003, 26.05.2011 to 04.10.2013 and 12.09.2014 to 17.02.2016, Counter Insurgency Modified Field Area from 24.07.2003 to 16.09.2006, High Altitude and Un-Congenial Climate Area from 23.11.1999 to 28.08.2000, 19.06.2007 to 17.12.2008, 07.10.2009 to 04.09.2010 and 14.09.2019 to 26.12.2022, High Altitude Area (15000 ft & above) from 27.02.2020 to 31.12.2020, Modified Field Area from 20.10.2013 to 12.08.2014. He has also been awarded Samanya Seva Medal 1965/WC, Manipur, 50<sup>th</sup> year Independence Anniversary Medal, OP

RAKSHAK Medal, High Altitude Medal, 9 Years Long Service Medal, Siachen Glacier Medal, High Altitude Medal and 30 years Long Service Medal. In spite of all these achievements, he was not promoted to the rank of Subedar Major though considered thrice by Departmental Promotion Committee in the year 2019, 2020 and 2021. Respondents did not disclose the reasons for his non promotion to the rank of Subedar Major. He further submitted that he was also considered twice for grant of Honorary Commission to the rank of Lieutenant in active service but was not granted though his junior JC-491205N Sub/Hony Capt Om Prakash Nayal, who was having less qualified service than him has been awarded Honorary Commission.

4. Ld Counsel for the applicant submitted that the applicant was a disciplined soldier and his complete service profile was outstanding, yet he has been denied. The applicant submitted a representation dated 17.05.2022 to the Chief of the Army Staff citing all his service achievements but the same was not even replied. The applicant filed O.A. No 1014 of 2022 for this purpose, then only it was decided on 11 May 2023 without giving any benefit to the applicant.

5. Ld. Counsel for the applicant prayed that the impugned order dated 11.05.2023 be quashed and applicant be granted Honorary Commission on the occasion of Independence Day 2021 and Republic Day 2022 alongwith all consequential service benefits being a eligible candidate.

6. On the other hand, Ld. Counsel for the respondents submitted that applicant was enrolled in the Army on 28.02.1992 and was promoted to the rank of Subedar with effect from 16.10.2015. He was discharged from service on superannuation. After discharged from service, the applicant preferred complaint dated 17.05.2022 against non award of Honorary Commission in the year 2021-2022 on the occasion of Independence Day 2021 and Republic Day 2022 highlighting his promotions, course grading, service in Operational/Field/ Modified Field areas. Records JAT Regiment vide letter dated 13 Jun 2022 replied that the applicant did not come up in merit list for promotion to the rank of Subedar Major in Departmental Promotion Committee for the year 2019, 2020 and 2021 as per his service profile. As regards award of Honorary Commission is concerned, it is awarded based on the merit on laid down parameters and not based on seniority or Annual Confidential Report profile as contended by the applicant. The course grading of 'BX' and above are only given weightage for grant of Honorary Commission. The applicant had secured 'B' and 'C' gradings in the courses attended by him. His contention that he got outstanding grade is incorrect and devoid of fact. According to service document of the applicant, details of Counter Insurgency Operations, Counter Insurgency in Modified Field, High Altitude-I & High Altitude-II, Field Service, Medal and Stars have been considered correctly while finalising the list for grant of Honorary Commission.

7. Learned Counsel for the Respondents further submitted that the applicant was considered for grant of Honorary Commission on the

Occasion of Independence Day-2021 (Two Chance) and Republic Day - 2022 (Last Chance) in accordance with the policy, keeping in view his overall service profile but he was not considered for grant of Honorary Commission in active service due to low in comparative merit. He further submitted that no prejudice has been done to the applicant.

8. The contention of the applicant that a Junior Commissioned Officer, Junior to him has been granted Honorary Commission is not borne out of the documents placed on record. Honorary Commission is based on merit and not on seniority. It is evident from the records that the applicant did not make it to comparative merit. Honorary Commission is awarded on the basis of relative merit drawn from the panel of all affected Junior Commissioned Officers. All the details of service rendered, medals/decorations earned and courses attended by the applicant have been evaluated. Honorary Commission is not a promotion but an honour bestowed upon eligible Junior Commissioned Officers after screening them through a quantified process in accordance with Para 177 of Regulations for the Army 1987 (Revised). Integrated Headquarters of Ministry of Defence (Army)/Ceremonial and Welfare (CW-2) draws a final merit list in accordance with the data sheets sent by concerned Records. Since the applicant did not come in the final merit list, he was not granted Honorary Commission; hence the OA may be dismissed being devoid and bereft of merit.

9. We have perused the original records sent by Ceremonial & Welfare Directorate/CW-2, Adjutant General's Branch, Integrated

Headquarters of MoD (Army), New Delhi through letter dated 12.09. 2024 and analysed the submissions of both the counsels.

10. The applicant was considered for grant of Honorary Commission in two chance category on the occasion of Independence Day 2021 and last chance category on Republic Day 2022. His complete service profile as per Master Data Sheet submitted by Records and signed by the applicant himself was considered and merit drawn. The applicant has not been granted Honorary Commission on both the occasions being low in comparative merit details :-

(a) **Independence Day 2021 (Two Chance)** – In this occasion the applicant had scored 42 marks against the cut off of 51 marks and stood at Serial Number 3155 in the merit list. The last Junior Commissioned Officer scored 51 marks and granted Honorary Commission as Lieutenant. He stood at Serial Number 3107 in merit list. There are 47 persons in between the last person who was awarded Honorary Commission and the applicant.

(b) **Republic Day 2022 (Last Chance)** – In this occasion, the applicant had scored 44 marks against the cut-off of 46 marks and stood at Serial Number 2901 in merit list. The last Junior Commissioned Officer scored 46 marks and granted Honorary Commission as Lieutenant. He stood at Serial Number 2894 in merit list. There are 06 persons in between the last person who was awarded Honorary Commission and the applicant.

11. As regards JC-491205N Subedar Om Prakash Nayal, who is junior to the applicant, and is of the same unit of the applicant is concerned, he was considered on the occasion of Independence Day 2021 for Honorary Lieutenant (Two Chance). He has scored 53 marks and stood at Serial Number 3104 whereas applicant scored 42 marks and stood at Serial Number 3155. Applicant's contention that Subedar Om Prakash Nayal's service profile is below than the applicant, is totally wrong. There are 50 persons in between Subedar Om Prakash Nayal and the applicant.

12. After considering the matter in its entirety, we do not find any merit or substance in the Original Application.

13. In view of above, Original Application is devoid of merit and is liable to be dismissed and is accordingly **dismissed**.

14. No order as to costs.

**(Vice Admiral Atul Kumar Jain)**  
**Member (A)**

**(Justice Anil Kumar)**  
**Member (J)**

Dated: 23rd January, 2025

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