

Court No. 1

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

Original Application No 606 of 2018

Wednesday, this the 24th day of November, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

JC-480525H Ex Sub Raghveer Singh Tomar, Vill & Post-
Etah, Distt- Morena, PIN- 476134 (M.P.)

..... Applicant

Ld. Counsel for the : **Shri KK Misra, Advocate**
Applicant

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, IHQ of MoD (Army), New Delhi.
3. Officer in Charge, Records, Rajput Regiment, Fatehgarh.
4. Commanding Officer, 4 Rajput Regiment, C/o 56 APO.

..... Respondents

Ld. Counsel for the : **Shri GS Sikarwar,**
Respondents **Central Govt Counsel**

ORDER

“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”

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

(i). To call for entire service records of the applicant and examine and compare the same with those who were treated qualified and granted the Hony rank of Lieutenant.

(ii). To direct the respondents to grant Hony rank of Lieutenant to the applicant wef 26.01.2017.

(iii). Any other relief which the Hon’ble court may think just and proper may be granted in favour of the applicant.

(iv) Cost the case may be allowed.

2. Facts giving rise to Original Application in brief are that applicant was enrolled in Indian Army on 30.07.1987. He was promoted to the rank of Subedar on 01.08.2012. He was discharged from service on 01.08.2017 after rendering about 30 years of service. He was willing for extension of service and his service was extended for two years. Applicant was screened for Hony Commission on 26.01.2017 but he did not come up in the merit list. He was granted Hony rank of Sub Maj on retirement.

Being aggrieved by non grant of Hony Commission on active list, the applicant has filed instant O.A. for grant of Hony Commission.

3. Learned Counsel for the applicant pleaded that applicant during his service tenure was posted to Rashtriya Rifles in J&K at Doda which is prestigious posting and is granted to those having outstanding carrier profile. The applicant was promoted to the rank of Subedar on 01.08.2012. In all his ACRs initiated in the rank of Subedar, applicant was graded outstanding or above average and he was recommended for grant of Hony rank of Lieutenant. The applicant was discharged from service on 01.08.2017 after rendering about 30 years of excellent army service. After retirement from army, applicant was granted rank of Hony Sub Maj. He was considered for grant of Hony Commission on 26.01.2017 but he was wrongly denied for the same. Three JCOs junior to applicant were granted Hony rank of Lieutenant in the first chance itself whereas the applicant in spite of having better service profile than those JCOs was denied Hony rank of Lieutenant. One Subedar Rajbir Singh was placed in low medical category before his retirement but even then he was granted Hony rank of Lieutenant. Applicant submitted representation for considering his case on merit for

grant of Hony rank but no reply was given by the respondents. Respondents have denied promotion of Honorary Leutinant to the applicant in very illegal and arbitrary manner which is violative of Article 14 of the Constitution of India. He pleaded that respondents be directed to grant Honorary Commission to the applicant.

4. On the other hand, Ld. Counsel for the respondents contended that applicant was enrolled in army on 30.07.1987 and he was discharged from service 01.08.2017 on completion of terms and conditions of service. The applicant has been granted service pension for the service rendered in the army. The applicant was promoted to the rank of Subedar on 01.08.2012. He was screened for extension of service for two years and after having been found fit, extension was granted to him from 20.07.2015 to 29.07.2017. As per Min of Def letter dated 16.05.2008, all Subedars/ Subedar Majors are considered for grant of Hony Commission on active list for a maximum of two occasions (two chance and last chance) and once after retirement. In the instant case, the applicant was screened for Honorary Commission on Republic Day 2017 (26.01.2017), but he did not come up in the merit list, consequently, could not get Hony Commission on active

service. However, the JCO was granted Hony rank of Subedar Major after retirement being found in merit w.e.f. 01.08.2017. Grant of Hony Commission to the JCOs is not a statutory right rather it is granted to the eligible JCOs on each occasion of Republic Day and Independence Day based on merit vis a vis the number of vacancies which have been stipulated by the Govt. The applicant submitted representations with request to grant Hony Commission which were replied vide letter dated 14.07.2017 and 16.11.2017. On screening for grant of Hony Commission, applicant was found ineligible by board of officers. Learned counsel for the respondents pleaded that instant O.A. has no substance and is liable to be dismissed.

5. We have heard Ld. Counsel for the applicant as also Ld. Counsel for the respondents. We have also gone through the policy on the subject.

6. The questions which needs to be answered is whether the applicant is entitled for grant of Honorary Commission or not?

7. Honorary Commission is granted to JCOs of the Army on active list on the occasion of Republic Day and Independence Day. The entire profile and performance including medical category of the JCOs are taken into consideration while making final list for grant of Honorary Commission. The system

of processing of recommendations for Honorary Commission is computerised at Army Headquarters. There are inbuilt safeguards in the system to ensure 100 percent accuracy. It is fool proof and immune to external influences and manipulations. The inputs of all JCOs are authenticated by the Officer-in-Charge Records and any amendment to the basic data is processed through the Commands to ensure accuracy. The award of Honorary Commission is based on merit and pro rata basis vis-a-vis vacancies allotted by the Govt.

8. On perusal of policy letter it transpires that for grant of Hony Commission to JCOs, there are certain marks for ACR Grading, Course Grading, Foreign Service, Field/ High Altitude/ Counter Insurgency Operation, Medals and Stars, Disciplinary Criteria and Medical Category. All three JCOs mentioned by the applicant have more field/High Altitude/Counter Insurgency Operation service than the applicant. Subedar Surender Singh got 'AI' grading in Junior Leadership Court and has done Platoon Commander Course as well as got two higher grade ACRs than the applicant which makes his service profile better than the applicant. As per Para (a) (ii) of Army Order 1/2003/MP, JCOs placed in Medical Category SHAPE-2 temporary or permanent are eligible for grant of Hony

Commission. Overall service profile of the applicant is very good but service profiles of all three other JCOs mentioned by the applicant are better than the applicant. In the instant case, applicant did not come up in the merit list for grant of Hony Commission during active service, hence could not get the Hony Commission. No injustice has been done with the applicant.

9. Moreover, the Tribunal does not sit in appeal over decisions not to grant Honorary Commission, based on policy guidelines. The applicant failed to establish that the respondents acted illegally in not granting Honorary Commission to him. Thus, taking into consideration of aforementioned policies and guidelines, we are clear that applicant was not eligible for grant of Honorary Commission on Republic Day on active list.

10. In view of the above, the O.A. lacks merit and is accordingly **dismissed**.

11. No order as to costs.

12. Pending applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) **Member (J)**

Dated : 24 November, 2021

Ukt/-