

Reserved

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 93 of 2020

Friday, this the 28th day of April, 2023

“Hon’ble Mr. Justice Ravindra Nath Kakkar, Member (J)”

“Hon’ble Vice Admiral Atul Kumar Jain, Member (A)”

Bharat Singh (JC - 541052N Ex Sub), Bisan Singh, Resident of Village :Salidhar, Post Office: Majhera, District : Pithoragarh, PIN - 262501.

-----Applicant

Ld. Counsel for the Applicant: **Shri Yashpal Singh, Advocate**

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Additional Director General Personnel Services, Adjutant General’s Branch (AG/CW-2), Integrated Headquarters of Ministry of Defence (Army), New Delhi - 110011.
3. Officer- in - charge Records, The Kumaon Regiment, PIN-900473, C/O 56 APO.
4. Commanding Officer, 16th Battalion, The Kumaon Regiment, PIN - 911316, C/o 56 APO.
5. Principal Controller of Defence Accounts (Pensions), Draupadi Ghat, Prayagraj (U.P).

..... Respondents

Ld. Counsel for the Respondents :**Shri Amit Jaiswal,
Central Govt Counsel.**

ORDER**“Per Hon’ble Mr. Justice Ravindra Nath Kakkar, Member (J)”**

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) Issue / pass an order setting aside the order/letter as provided by the extract of Para 2 of AG/CW-2 Note No. B/43449/AG/CW-2 dated 11.04.2019 along with letter dated 26.04.2019, rejecting claim of the applicant for grant of Honorary Commission, and direct the respondents to consider and grant Honorary Commission and consequential monetary and other service benefits attached thereto to the applicant from the date of discharge along with arrears and interest.*
- (b) Issue / pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.*
- (c) Allow this Original Application with cost.”*

2. Brief facts of the case are that applicant was enrolled in the Indian Army on 17.04.1989 and was discharged from service on superannuation w.e.f. 30.04.2019. He was promoted to the rank of Sub on 06.07.2014. The applicant was considered for grant of honorary commission on the occasion of Independence Day,

15.08.2018 and Republic Day, 26 January 2019. List of Army personnel of Kumaon Regiment was published who were granted honorary commission but the name of the applicant was not found mentioned therein. Being aggrieved, the applicant has preferred the present Original Application for grant of Honorary Commission.

3. Learned counsel for the applicant submitted that applicant during his service in the army had served in field, high altitude and counter insurgency/ operational areas. He was awarded various medals including Special Service Medal, W/C Suraksha (Op Rakshak), Clasp Suraksha to Special Service Medal (Op Rhine), Op Vijay Medal, Siachen Glacier Medal and Samanaya Sewa Medal. ACR of the applicant was excellent and during the entire service career of the applicant he was not awarded any major punishment. His character was assessed as 'Exemplary'. The applicant was approved by the DPC of 2018 against vacancies occurring in the year 2019 for promotion to the rank of Sub Maj, but he could not get promotion due to unavailability of vacancy. The applicant along with others was duly recommended by the unit for grant of Honorary Commission as Lieutenant on the occasion of 15th August 2018 and Republic Day 26.01.2019. List of army personnel of Kumaon Regiment was published who were granted Honorary Commission, but the name of the applicant was not found mentioned therein. On perusal of said list, it transpired that there

were several persons who were not found eligible for promotion in the rank of Sub Maj by the DPC of 2018 but they were granted Honorary Commission. Applicant filed application under Right to Information Act 2005. He was informed that service documents relating to applicant were sent to the competent authority within time but recommendation of Commanding Officer was not sent in time. It was also informed that the process of evaluation is done at the levels of Command Headquarters and Army Headquarters and Record Office has no role to play in the matter of grant of Honorary Commission. He was also informed vide Army Headquarters letter dated 11.04.2019 that he was not granted honorary commission being low in comparative merit. In the meantime applicant was discharged from service on 30.04.2019 on completion of terms of engagement after rendering 30 years of service in the rank of Sub. Applicant was provided an extract of Para 2 vide letter dated 11.04.2019 but he was not communicated details of candidates granted Honorary Commission which is wholly illegal and not sustainable in the eyes of law. Learned counsel for the applicant pleaded that original record of the candidate along with others pertaining to grant of Honorary Commission be summoned and checked and if applicant is found eligible, Honorary Commission be granted to him.

4. Per Contra, learned counsel for the respondents submitted that applicant was considered for grant of Honorary Commission on the first occasion of Independent Day 2018 and second occasion on Republic Day 2019. Before submitting the Honorary Commission documents to Integrated Headquarters of MoD (Army) and Command HQs, Master Sheet incorporating entire service details including field services, Courses, Medal, Honours and award, Medical Category and Instructor Tenure etc as applicable for grant of Honorary Commission was prepared and forwarded to the applicant for authentication of the correctness of the service details. Master Sheet certifying the details incorporated thereon was received back in the month of Dec 2017 duly signed by the applicant and countersigned by the Commanding Officer unit. Based on the Master Sheet signed by the applicant documents for grant of Honorary Commission on the occasion on Independence Day 2018(1st Chance) and Republic Day 2019 (2nd chance) were submitted to Integrated Headquarters of MoD CVI-2 Directorate through Command Headquarters along with other affected JCOs of the Regiment vide Records The Kumaon Regiment letter dated 02.02.2018 and letter dated 07.09.2018. There is stipulated time frame for submission of Honorary Commission documents to Integrated Headquarters of MoD and Command Headquarters i.e. 10 Feb for Independence Day (1st Chance) and 10 Sep for

Republic Day (2nd Chance. In case, recommendations of Commanding Officer is not received within the stipulated time frame, Honorary Commission documents can be forwarded without waiting for the recommendation of Commanding Officer and the same can subsequently be forwarded along with 1st lot Amendment/ Addition/Deletion. Accordingly, in the instant case, recommendations of Commanding Officer for 1st Chance was forwarded to Command Headquarters vide this office letter dated 29.05.2018 and for 2nd chance the same was forwarded vide letter dated 10.12.2018 along with all remaining mandatory documents. The applicant was considered for grant of Honorary Commission on the occasion of 15.08.2018 and 26.01.2019 but he was not conferred Honorary Commission on both the occasions being not selected in the merit list against the allotted vacancies.

5. Learned counsel for the respondents further submitted that selection of honorary commission is made strictly as per merit. Since applicant did not make merit on both the chances; he was not granted honorary commission on 15.08.2018 and 26.01.2019 respectively. He also submitted that award of honorary commission is totally based on comparative merit list finalised at Army Headquarters as per the vacancies authorised on the basis of merit of their complete service profile and performance during the entire service. Since, the name of applicant has not come in the merit

during both the chances, hence he was not awarded honorary commission in the active list as per rules. Learned counsel for the respondent pleaded that instant O.A. has no substance and is liable to be dismissed.

6. We have perused the records and analysed the submissions of both the counsels and find that applicant was considered for grant of honorary commission as a first chance on 15.08.2018 and as second chance on 26.01.2019 but he did not make the merit against the vacancies allotted in both the chances. His case was considered as per criteria laid down in IHQ of MoD (Army) letter dated 11.05.2009 but applicant could not be awarded honorary commission being not made the merit as per merit list prepared by Ceremonial and Welfare Directorate (CW-2).

7. After perusing of original extract of allotted marks (Confidential), placed before the Bench by the Departmental Representative, it is held that Sub (Hony Lt) Hukum Singh Yadav (Retd) of Kumaon Regt was considered for grant of Hony Commission alongwith Sub (Hony Sub Maj) Bharat Singh (Applicant) in two chances First on Independence Day 2018 and 2nd on Republic Day 2019. Sub Hukum Singh Yadav was granted Hony Commission in his last chance consideration, however the applicant was not granted Hony Commission in both the occasions being low in comparative merit.

On **Independence Day 2018**, Sub Hukum Singh Yadav had scored **49 marks** against the cut off of **56 marks** and stood at serial No 2682 in merit list. Sub Bharat Singh had scored **47 marks** against the cut off of **56 Marks** and stood at Ser No 2690 in merit list. Sub Maj Jeevan Singh Mehra who was the last person scored 56 marks and granted with Hony Commission as Lieutenant stood at Ser No 2667 in merit list. Sub Hukum Singh Yadav and the applicant respectively, who were not in merit list. Further on **Republic Day 2019 (2nd Chance)** Sub Hukum Singh Yadav had scored **47 marks** against the cut off of **45 marks** and stood at Ser No 2455 in merit list and granted Hony Commission. Sub Bharat Singh, the applicant had scored **40 marks** against the cut off of **45 marks** and stood at Ser No 2481 in merit list. Sub Ashok Kumar who was the last person scored 45 marks and granted with Hony Commission as Lieutenant, stood at Ser No 2461 in merit list. There are 19 persons in between the last person who was awarded and the applicant was not in the merit list. We have analysed the submissions of both the counsels and find that applicant was considered for grant of honorary commission as a first chance on 15.08.2018 and as second chance on 26.01.2019 but he did not make the merit against the vacancies allotted in both the chances. Recommendation of Commanding Officer along with other details was considered by the selection committee while

granting Honorary Commission. Submission of applicant that recommendation of Commanding Officer was sent late, hence he could not be granted Honorary rank of Lieutenant is not agreed.

8. In view of above, we do not find any illegality or illogicality in rejecting the claim of the applicant for grant of Honorary Commission to the rank of Lt. The O.A. is devoid of merit and deserves to be dismissed.

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

10. No order as to costs.

11. Pending misc applications, if any, shall stand disposed off.

(Vice Admiral Atul Kumar Jain) (Justice Ravindra Nath Kakkar)
Member (A) Member(J)

Dated: 28 April, 2023
Ukt/-