

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No.1

O. A. No. 237 of 2023

Sub Ram Chandra Prasad

Applicant

By Legal Practitioner for the Applicant : Shri KK Misra, Advocate

Versus

Union of India & Others

Respondents

By Legal Practitioner for Respondents : Shri Sunil Sharma, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>04.04.2024</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Lt Gen Anil Puri, Member (A)</u></p> <ol style="list-style-type: none">1. Judgment pronounced.2. O.A. No. 237 of 2023 is allowed.3. For orders, see our judgment and order passed on separate sheets. <p style="text-align: center;">0</p>

RESERVED

Court No 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 237 of 2023

Thursday, this the 4th day of April, 2024

**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Lt Gen Anil Puri, Member (A)**

JC-703054Y Sub Ram Chandra Prasad, Command Hospital (CC),
Lucknow

.....**Applicant**

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

Vs.

1. Union of India, through its Secretary Ministry of Defence,
New Delhi-110011
2. Chief of the Army Staff, Army Headquarters, New Delhi-110011.
3. Officer-in-Charge, Records Army Medical Corps, Lucknow (UP).

Ld. Counsel for the Respondents :

**Shri Sunil Sharma,
Advocate
Central Govt. Standing**

Counsel.

AS

Order

"Per Hon'ble Mr. Justice Anil Kumar, 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 direct respondent No 3 to immediately grant Hony rank of Lt to the applicant wef 15.08.2022, already granted by Army HQs as per their Gazette Notification dated 15.08.2022 (Annexure A1 to OA) with all consequential benefits.*
- (ii) *Any other relief which the Hon'ble Tribunal may think just and proper may be granted to the applicant.*
- (iii) *Cost of the case may be awarded in favour of the applicant.*

2. The factual matrix on record is that the applicant was enrolled in the Army on 28.02.1993 and was released from service on 28.02.2023 on completion of his terms of engagement in the rank of Subedar. Applicant was screened for grant of Honorary Commission in the rank of Honorary (Hony) Lieutenant (Lt) on active service on the occasion of Independence Day 2022 (1st chance) and granted the rank of Hony Lt on Independence Day 2022. However, Army Headquarters vide their Message dated 14.08.2022 had directed that Junior Commissioned Officers granted Hony Commission on Republic and Independence Day and are in low medical category SHAPE-3(T) or whose discipline proceedings are under progress, Hony Commission in such cases will be held in abeyance. Accordingly, Army Medical Record Office verified the data related to medical category of the applicant and found that he was in low medical category S1H1A1P3(T-24)E1 with effect from 11.06.2022 for Essential Primary Hypertension. Due to said policy Hony

Commission granted to him on the occasion of Independence Day 2022 was held in abeyance. When Applicant's medical category was upgraded, his Recommendation Form and Data Sheet was again sent to authorities as last chance for grant of Hony Commission, but the applicant could not make it being low in merit. Aggrieved by denial of Hony Commission to the rank of Hony Lt (already granted to him), the applicant has filed the present Original Application for release of Hony rank of Lt with effect from 15.08.2022 with all consequential benefits.

3. Learned counsel for the applicant submitted that during June 2021, the applicant was posted to Super High Altitude Area, Leh (J&K) where he stayed for about four months and thereafter in Sep 2021, he was transferred to Galwan Ghati, another Super High Altitude Area. Here, due to climatic conditions the applicant suffered from a disease, Primary Hypertension. After examination and treatment the applicant was placed in medical category P-2 (Temp) from 11.06.2022 and thereafter, on review in medical category P-2(P) on 25.11.2022. The disability suffered by the applicant was due to his posting in Super High Altitude Area and, therefore, it is attributable to military service. He further submitted that due to applicant's excellent record of service, he was granted Hony rank of Lt on the occasion of Independence Day 2022 and the same was published in Gazette Notification. In that list, his name appears at serial 57. Despite grant of Hony rank of Lt on the occasion of Independence Day 2022, he was not promoted due to low medical category. The applicant approached all authorities for his promotion but he was not allowed to wear the rank. He was informed that his rank of Hony Lt is held in

abeyance as he was in low medical category at the time of selection. Ld. Counsel for the applicant further submitted that as per policy dated 22.03.2019 issued by AG's Branch, New Delhi, it has been decided that medical Category P2 has no effect on the grant of Hony Commission to JCOs. He submitted that concerned authorities be directed to promote him to the rank of Honorary Lieutenant (already granted to him on the occasion of Independence Day 2022) with all consequential benefits.

4. Learned counsel for the respondents submitted as per rules, Hony Commission is granted to Junior Commissioned Officers (JCOs) of the Army on Active List on the occasion of Republic Day and Independence Day. The entire service profile and performance of a Junior Commissioned Officer is considered and no single factor does over-ride the other inputs. The system of processing the recommendations for Hony commission is computerised at IHQ of MoD (Army) and the channel followed is the respective Record Offices, Command and IHQ of MoD. 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 Officer-in-Charge Records and any amendment to the basic data is processed through the Commands to ensure accuracy. The recommendation forms are evaluated and points as per confidential yardstick, with commands being the first in the channel for allotment of points. The award of Hony commission is based on merit and pro rata vis-a vis vacancies allotted by the Government. (u)

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5. Ld. Counsel for the respondents submitted that initial data sheet of the applicant was received by AMC Records wherein medical category of the applicant was mentioned as SHAPE-1. This was verified by the applicant and countersigned by his Commanding Officer. Accordingly, AMC Records had processed his documents for consideration of Honorary Commission to the applicant on active list on the occasion of Independence Day 2022 (1st Chance). Thereafter, the applicant was placed in low medical category S1H1A1P3(T-24) with effect from 11.06.2022 to 25.11.2022 for Essential Primary Hypertension which was originated in the month of May 2022 vide AFMSF dated 11.06.2022. Due to non receipt of any intimation regarding down gradation of medical category of the applicant in Honors and Awards Section of AMC Records, they could not communicate to the higher authorities. As a result, the applicant was granted Hony commission to the rank of Hony Lt on active service on the merit basis by considering him in medical category SHAPE-1. As per Army HQ Message dated 14.08.2022, if Hony commission is granted to JCO and he is found in low medical category, his Hony commission will be held in abeyance till the JCO is upgraded to acceptable medical category. His next re-categorisation medical board was due on 25.11.2022; hence it was conducted at Command Hospital (Central Command) Lucknow and his medical category was upgraded to S1H1A1P2(P)E1 for Primary Hypertension with effect from 25.11.2022. As per policy issued by IHQ of MoD dated 19.05.2008, his Recommendation Form and Data Sheet was further sent to competent authorities for grant of honorary commission. (last

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chance), but the applicant could not make it being low in merit. Since the rank of Honorary Lieutenant was granted to the applicant inadvertently, he pleaded for dismissal of O.A. being devoid of merit.

6. We have heard learned counsel for the parties and have perused the material on record.

7. The applicant was enrolled in the Army on 28.02.1993 and was released from service on 28.02.2023 on completion of his terms of engagement. Applicant was screened for grant of Honorary Commission in the rank of Honorary (Hony) Lieutenant (Lt) on active service on the occasion of Independence Day 2022 (1st chance) and accordingly his Master Data Sheet was prepared and forwarded to Record Office duly signed by the applicant and countersigned by his Commanding Officer. Record Office prepared Recommendation Form, Data Sheet which was further scrutinised by a Board of Officers and submitted to Headquarters Northern Command. At the time when the documents were processed with Ceremonial and Welfare Directorate at Integrated Headquarters of Ministry of Defence (IHQ of MoD), Army, the applicant was in medical Category SHAPE-1 and likewise he was considered and granted Hony Commission to the rank of Lt with effect from 15.08.2022. However, Army HQ vide message dated 14.08.2022 reproduced above had directed all Record Offices that JCOs/Havs granted Hony Commission on Independence Day 2022 and are in low medical category SHAPE-3(T) or whose discipline proceedings are under progress, Hony Commission in such cases will be held in abeyance. Accordingly

Army Medical Record Office verified the data related to medical category of the applicant and found that the applicant was placed in low medical category P3 (T-24) with effect from 11.06.29022 to 25.11.2022 for Essential Primary Hypertension. Later, his medical category was upgraded to P2(P) with effect from 25.11.2022 to 25.11.2024. When Applicant's medical category was upgraded, his Recommendation Form and Data Sheet was again sent to authorities as last chance for grant of Hony Commission, but the applicant could not make it being low in merit.

8. Relevant policies/letters concerning grant of Hony commissions cited by Ld. Counsel for the parties are as under :-

(a) Ceremonial & Welfare Directorate/CW-2, Adjutant General's Branch, Integrated HQ of MoD (Army) letter No B/4345/Policy/AG/CW-2 dated 22 Mar 2019

ELIGIBILITY MEDICAL CRITERIA FOR GRANT OF HONORARY COMMISSION/RANKS TO JCOs AND DFRs/HAVs

1. x x x x x x x x x x x x x x x x x x x x
2. (a) (i) to (v) x x x x x x x x x x x x x x x

(vi) JCOs in temporary medical category SHAPE-3(T) not covered by above mentioned sub paras except Obesity, Psychological Causes and Misconduct or Self Inflicted Injuries will be eligible for consideration for Hony Commission. However the Hony Commission if granted will be held in abeyance till the time the JCO is upgraded to an acceptable medical category. In case the JCOs remains in unacceptable medical category upto six months from the occasion or till his retirement (whichever is earlier) then the Hony Commission will be withdrawn through a Statement of Case.

(b) Eligible upto Med Cat Shape 2 – JCOs placed in medical category Shape-2 will be eligible. This will include both temp and perm low med cat. This will be irrespective of whether or not the disease/sickness or injury is attributable/non attributable to or aggravated by service conditions. However cases of medical cat SHAPE-2 (both temp and perm) due to psychological causes, misconduct or self inflicted injuries will not be eligible for grant of hony commission.

(C) & (D) X X X X

X X X X

X X X X

3. X X X X

X X X X

X X X X

(Sd/-X X X)

Manoj Singh

Col

Col CW-2

For Adjutant Genera

(b) Indarmy Message No B/43432/GEN/ID-22/AG/CW-2 dated 14.08.2022

GT OF HONY COMMISSION OBLIQUE RK TO JCOS AND HAVs ON THE OCCASION OF INDEPENDENCE DAY 2021 (.) ELIGIBILITY COMMA DISCP CASE OBLIQUE MED CAT (.) PL ENSURE THAT JCOS OBLIQUE HAVs WHO ARE GTD HONY COMMISSION OBLIQUE RK AND WHO ARE PRESENTLY LMC SHAPE-3 (T) OR WHOSE DISCP PROCEEDINGS ARE UNDER PROG COMMA HONY COMMISSION OBLIQUE RK IN SUCH CASES WILL BE HELD IN ABEYANCE IN ACCORDANCE WITH THIS DTE LETTER NO B/43435/POLICY/AG/CW-2 DT DEC 31 (31) yr 2010 AND B/43435/POLICY/AG/CW-2 DT MAR 22 (22) YR 2019 (.) ALSO IN CASE A JCO OBLIQUE HAV WHO IS GTD HONY COMMISSION OBLIQUE RK BUT INDL HAS BECOME INELIGIBLE AS ON AUG 15 (15) DUE TO ANY REASON INCL DISCP OBLIQUE MED COMMA THEN HONY COMMISSION WILL BE WITHDRAWAN THROUGH A S OF C AS PER THIS DTE LETTER NO B/43435/AG/CW-2 DT FEB 08 YEAR 2008/FOR STRICT COMPLIANCE

Sd/- x x x

Col Prashant Sharma

Col, CW-2

(c) IHQ of MoD (Army) CW-2 letter No B/43432/AG/CW-2 dated 07.12.2022**GRANT OF HONY COMMISSION TO JC-703054Y SUB RAM CHANDRA PRASAD OF AMC ON THE OCCASION OF INDEPENDENCE DAY 2022**

1. x x x

x x x

x x x

x x x

x x x

2. It is intimated that JC-703054Y Sub (Hony Lt) Ram Chandra Prasad was considered in two chance cat for Hony Commission on the occasion of Independence Day 2022. At that time when the docus were processed with this office, the JCO was SHAPE-1 and likewise indl had been gtd Hony Lt wef 15.08.2022 in his two chance cat vide Ser No 1576 of the Gazette of India. However, the JCO was downgraded to P3 (T-24) with Daig : Essential (Primary) Hypertension wef 11 Jun 2022 and the same was not intimated by the AMC Records Office before the pub of Gazette Notifn.

3. As per AG/CW-2 policy on Generic Yardsticks, marks will be

deducted if a JCO becomes LMC (except Battle Casualty) due to Hypertension, Diabetes and substance abuse in last two years of service. Due to the a/m cat of the indl, the JCO is now not in merit. Hence his name is reqd to be withdrawn. The procedure for withdrawal of names in respect of those JCOs whose name could not be withdrawn before due date, is laid down vide IHQ of MoD (Army)/AG/CW-2 letter No B/43435/AG/CW-2 dated 18 Feb 2008. S of C is required to be processed by Records through Line Dte and Comd HQ duly justifying withdrawal of name from the Gazette of India (Extra Ordinary) for Hony Commission. Once sanctioned by Competent Auth (AG) the names are withdrawn and published in corrigendum of next occasion.

4. The case needs to be investigated in detail through a staff C of I for non-intimation of downgrading of the cat to AG/CW-2 as per policy and suitable disciplinary action needs to be initiated against the erring staff, found guilty. The case for withdrawal of indl name is required to be initiated as per policy. Also, pl process the docu for Hony Lt as Last Chance on the occasion of Republic Day 2023

5. For information and necessary action pl

Sd/- x x x

(Pradeep Sehrawat)

Lt Col

AAG, CW-2

For Adjutant General

9. The applicant was placed in low medical category S1H1A1P3 (Temporary-24)E1 with effect from 11.06.2022 for Primary Hypertension for a period of 24 months (unacceptable medical category for grant of Hony Commission), however his medical category was upgraded to S1H1A1P2 (Permanent)E1 on 25.11.2022 (acceptable medical category for grant of Hony Commission) vide AFMSF-15 dated 25.11.2022 i.e. before completion of six months and his retirement on 28.02.2023. As per para 2 (a) (vi) of CW-2, AG's Branch, IHQ of MoD (Army) letter No B/4345/Policy/AG/CW-2 dated 22 Mar 2019 reproduced above "in case the JCO remains in unacceptable medical category upto six months from the occasion or till his retirement (whichever is earlier) then the Hony Commission will be withdrawn through a Statement of Case". In this case the applicant's medical category was upgraded to S1H1A1P2

(Permanent)E1 on 25.11.2022 (acceptable medical category for grant of Hony Commission) before completion of six months and his retirement on 28.02.2023. The applicant's Hony Commission rank of Lt granted on 15.08.2022 should not have been kept in abeyance, instead he should have been promoted to the rank of Hony Lt with effect from 25.11.2022 (date of upgradation of his medical category to acceptable medical category for grant of Hony Commission).

10. On perusal of Para 2 (b) of policy letter dated 22.03.2019 reproduced above, it is clearly mentioned that JCOs placed in medical category Shape-2 will be eligible for Hony Commission. This will include both temporary and permanent low medical category. This will be irrespective of whether or not the disease/sickness or injury is attributable/non attributable to or aggravated by service conditions. However cases of medical cat SHAPE-2 (both temp and permt) due to psychological causes, misconduct or self inflicted injuries will not be eligible for grant of Hony commission. Therefore, keeping above in view the applicant is very much eligible for promotion to the rank of Hony Lt with effect from 25.11.2022 (date of upgradation of medical category to acceptable medical category for grant of Hony Commission) with all consequential benefits.

11. In view of above guiding factors, rules and policy letters on the subject, we hold that the claim of applicant for grant of Hony Commission to the rank of Lt has wrongly been rejected by the respondents. Resultantly, Original Application is allowed. Applicant is entitled for promotion to the rank of Hony Lt from 25.11.2022 (date of upgradation of his medical category to acceptable medical category

for grant of Hony Commission) and further consideration for grant of Hony rank of Captain. The respondents are directed to grant Hony rank of Lt to the applicant with effect from 25.11.2022 and also consider him for grant of Hony rank of Captain as per existing policy with all consequential benefits.

12. No order as to costs.

13. Pending Misc. Application(s), if any, shall stand disposed off.



(Lt Gen Anil Puri)
Member (A)



(Justice Anil Kumar)
Member (J)