

RESERVED
Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 188 of 2023

Wednesday, this the 21st day of February, 2024

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Vice Admiral Atul Kumar Jain, Member (A)

JC-541344W Ex Subedar (Hony Lt) Gajendra Singh
S/o Late Sri Amir Singh
R/o 594 KA/347/25, Sharda Nagar, Nilmatha, Lucknow
..... **Applicant**

Ld. Counsel for the Applicant : **Col RC Jain (Retd)**, Advocate

Versus

1. Union of India, Through Secretary, Ministry of Defence (Army), New Delhi-110011.
2. Chief of the Army Staff, Integrated Headquarters of Ministry of Defence (Army), New Delhi – 110011.
3. Director General Ceremonial & Welfare Directorate, Adjutant General's Branch, IHQ of MoD (Army), New Delhi – 110011.
4. Officer-in-Charge Records, The Kumaon Regiment.
5. Commanding Officer 19 Kumaon.
6. PCDA (Pension), Draupadi Ghat, Allahabad – 211014.

... **Respondents**

Ld. Counsel for the Respondents : **Dr. Shailendra Sharma Atal**,
Central Govt Standing 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, whereby the applicant has sought following reliefs:-

- “(a) Issue/pass an order or direction to the respondents to quash/set aside CW directorate, IHQ of MoD (Army) Signal No. B/43432/GEN/RD-22/AG/CW-2(i) dated 14 August 2022 holding in abeyance the rank of Hony Lt in respect of the applicant.
- (b) Issue/pass an order or direction to the respondents to accord the rank of Hony Lt Rank to the applicant alongwith the associated consequential financial and other benefits from the date of gazette notification i.e. 15 August 2022.
- (c) Issue/pass an order or direction to the respondents to consider the applicant for the rank of Hony Captain also as on 26 January 2023, Republic Day.
- (d) Allow this application with exemplary cost for causing mental harassment and embarrassment besides financial losses to the applicant.
- (e) Issue/pass any other order or direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.”

2. Brief facts of the case are that applicant was enrolled in the Army on 28.12.1992 and was discharged from service on 31.12.2022 (AN) on completion of his terms of engagement. The applicant was conferred with Honorary rank of Lieutenant on active list on 15.08.2022 vide Gazette Notification dated 15.08.2022. However, as per direction of IHQ of MoD (Army) vide order dated 14.08.2022, which was received by the Records, The Kumaon Regiment on 16.08.2022, honorary rank of Lt. was held in abeyance. The order dated 14.08.2022 reads as, *“The JCO is involved in discipline case, hence temporary ineligible for grant of honorary commission on Active List. Honorary Commission in respect of the JCO will be held in*

abeyance till he become eligible and cleared by this Directorate". The applicant was discharged from service in the rank of Subedar and PPO was issued accordingly, however, due to disciplinary case pending against the applicant, he was not issued PPO of Hony rank of Lt. and its pensionary benefits were also not paid to the applicant. Being aggrieved, the applicant has filed the present Original Application for grant of Hony Lt. and its pensionary benefits w.e.f. 15.08.2022.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 28.12.1992. The applicant was bestowed the rank of Honorary Lieutenant on 15.08.2022 on the occasion of Independence Day, 2022 vide Gazette Notification dated 15.08.2022. The Commanding officer piped him with the honorary rank of Lt. in a small ceremony and Part II Order dated 15.08.2022 to this effect was also published by the Records, the Kumaon Regt. However, as per direction of IHQ of MoD (Army) vide order dated 14.08.2022, received by the Records, the Kumaon Regiment on 16.08.2022, honorary rank of Lt. was held in abeyance. The letter dated 14.08.2022 reads that, *"As per date held by this office, JCOs are involved in disciplinary case, hence temporary ineligible for grant of honorary commission on Active List. Honorary Commission in respect of the JCO will be held in abeyance till he become eligible and cleared by this Directorate"*.

4. Learned counsel for the applicant further submitted that applicant was not aware about any disciplinary case pending against him and no information in this regard was given to him by the

respondents. Even, Commanding Officer of the unit has also not informed about any disciplinary case pending against him. Therefore, to enquire about the pending disciplinary case, the applicant sent an application dated 21.12.2022 under RTI Act but no information regarding any disciplinary case pending against him was given to the applicant. The applicant on attaining the age of superannuation was discharged from service on 31.12.2022 and PPO was issued in the rank of Subedar and retiring benefits were calculated in the rank of Subedar instead of Honorary Lt. rank. The name of the applicant was not found in the list of personnel granted honorary rank of Captain on the occasion of Republic Day 2023. Hence, act of the respondents of holding in abeyance the Hony Lt. rank of the applicant is arbitrary, unjust, unreasonable and irresponsible which caused mental harassment and embarrassment in the unit and society besides financial losses. He pleaded to quash IHQ of MoD (Army) order dated 14.08.2022 and grant Hony Lt. rank to the applicant alongwith its associated consequential financial and other benefits from the date it was conferred to him, i.e. w.e.f. 15.08.2022.

5. On the other hand, learned counsel for the respondents submitted that applicant was conferred honorary rank of Lieutenant on 15.08.2022, however, as per IHQ of MoD (Army) letter dated 14.08.2022 directions were issued to keep honorary rank of Lt. in abeyance, the letter reads that, "*The JCO is involved in discipline case, hence temporary ineligible for grant of honorary commission on Active List. Honorary Commission in respect of the JCO will be held in*

abeyance till he become eligible and cleared by this Directorate”.

Hence, the case of the applicant with regard to grant of Honorary rank of Lt. was held in abeyance and applicant was discharged from service in the rank of Subedar on completion of terms of engagement and PPO was issued accordingly.

6. Learned counsel for the respondents have now filed a supplementary counter affidavit on 05.02.2024 in which it is stated that outstanding dues of Honorary rank of Lt. have already been paid to the applicant vide Corrigendum PPO issued in the rank of Honorary Lt. In this regard, Records, The Kumaon Regt letter dated 05.12.2023 is self explanatory and the same is reproduced as under :-

“Tele Mil : 2028

JC-541344W/Pers

AFT Cell
HQ Madhya UP Sub Area
PIN 900450
C/o 56 APO

Records, The Kumaon Regt
PIN – 900473
C/o 56 APO
05 Dec 2023

OA No. 188 of 2023 FILED BY JC-541344W SUB (HONY LT) GAJENDRA SINGH (RETD) VS. UOI AND OTHERS IN THE HON'BLE AFT (RB), LUCKNOW

1. PI ref your Sig No. 185013/OA 188/2023/C-1 dated 06 Nov 2023 and Legal Cell. The Kumaon Regt letter No. LC/JC-541344 dt 08 Nov 2023.

2. It is intimated that outstanding dues of Honorary rank of Lieutenant has already been paid to JC-541344W Sub (Honorary Lieutenant) Gajendra Singh (Retired). Corrigendum PPO and Statement of account for the month from Feb 2023 to Dec 2023 is enclosed herewith.

3. Details of benefits and dues are as under :-

(a)	Service pension	- 36,650/-.
(b)	Retirement Gratuity	- 16,69,041/-.
(c)	Commutated service pension	- 18,325/-.
(d)	Residual service pension	- 18,325/-.
(e)	Capitalised value of pension	- 19,52,932/-.
(f)	Average Pay	- 65,627/-.
(g)	Last Pay	- 73,300/-.
(h)	Level Pay Matrix	- L10.
(j)	Pay in Pay Matrix	- 57,800/-.
(k)	MSP	- 15,500/-.
(l)	Risk Allowance	- 59,332/-.

(m)	Arrears for Honorary Commission	- 88,448/-.
(n)	Transfer Grant	- 2,080/-.
(o)	Final leave encashment	- 35,880/-.

Sd/- x x x xx
 (Sojan Joseph)
 Lt Col
 SRO
 For OIC Records”

Learned counsel for the respondents submitted that now all outstanding dues with regard to grant of honorary rank of Lt. have been paid to the applicant and thus, this Original Application is liable to dismissed.

7. We have perused the records and analysed the submissions of both the counsels and find that applicant was conferred Honorary rank of Lt. during active service on 15.08.2022, however, as per directions of IHQ of MoD (Army), CW-2, honorary rank was kept in abeyance till clearance by Ceremonial & Welfare Directorate, IHQ of MoD (Army). Later on, Court of Inquiry pending against the applicant was finalised and his name was cleared by the Directorate. Accordingly, corrigendum PPO was issued in the rank of Honorary Lt. and all dues have been paid to the applicant in terms of Corrigendum PPO.

8. As far as grant of honorary rank of Captain is concerned, the applicant has already been discharged from service on 31.12.2022 as per terms of engagement of service and the name of the applicant for grant of honorary rank of Captain which was to be considered/granted on 26.01.2023; the prayer of the applicant is not justified as he was not in the strength of Army on 26.01.2023. Therefore, question to

consider his name as on 26.01.2023 does not arise and hence, his prayer for grant of honorary rank of Captain is rejected.

9. Since, the applicant has already been granted/paid all dues in regard to grant of honorary rank of Lt. on 15.08.2022, hence, this Original Application has become infructuous and is accordingly, **dismissed**.

10. No order as to costs.

11. Misc. Application(s), pending if any, shall stand disposed off.

(Vice Admiral Atul Kumar Jain)
Member (A)

Dated: February, 2024
SB

(Justice Anil Kumar)
Member (J)

