RESERVED
(Court No 2)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION No. 230 of 2017

Thursday, this the 27th day of February, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Maj Gen Sanjay Singh, Member (A)

Smt Urmila Devi Chauhan, Wife of JC-478029H Ex Sub Maj/Hony Lt Nanu Singh Chauhan, resident of House No 2, Krishna Colony, Phase-I, Deori Road, Ukharra Marg, Agra (U.P.).

…..... Applicant

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

Versus

1. Union of India, through Secretary Ministry of Defence, Govt of India, New Delhi.

2. Chief of the Army Staff, South Block, New Delhi.

3. Chief Record Officer, OIC, The Rajput Regiment, Pin-900427, C/o 56 APO.

4. Commandant, HQ Southern Command, Pune, C/o 56 APO.

5. Ceremonial & Welfare Directorate/CW-2-Adjutant General's Branch, Integrated Headquarter of Ministry of Defence (Army), South Block, DHQ, PO-New Delhi-110011.

.....Respondents

Ld. Counsel for the Respondents. **Shri Yogesh Kesarwani**, Advocate Central Govt. Standing Counsel

ORDER

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

(a) *To set aside/quash the order dated 20.07.2016 passed by resp. No. 5 after summoning the entire record of applicant which has to be examined being Annexed as Annexure No A-1 of this Original Application.*
(b) *To issue an order or direction to the respondents to award (Two chance) for Hony Commission of the rank of Lt in active service on 15.08.2007 and Hony Commission of the rank of Hony Capt in active service on 26.01.2008 of this Original Application.*
(c) *To issue an order or direction to the respondents to issue all consequential benefits to the applicant.*
(d) *To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant against the respondents.*
(e) *To allow this original application with costs.*

2. Brief facts of the case are that applicant's husband was enrolled in the Army on 21.04.1978 and in due course of time, he was promoted to the rank of Subedar Major w.e.f. 01.08.2004. Being placed in low medical category (LMC) S1H1A1P2(P)E1, he was discharged from service w.e.f. 31.01.2008 before completion of terms of engagement after having rendered 29 years, 09 months and 10 days service. After discharge from service, being aggrieved by non grant of Honorary Commission on Independence Day-2007 and Republic Day-2008, the applicant's husband had filed O.A. No. 77 of 2012 before this Tribunal which was allowed vide order dated 04.01.2016 directing the respondents to look into the matter and re-consider his case after taking into consideration original

record. In pursuance to order dated 04.01.2016, the respondents after due deliberation passed speaking and reasoned order dated 20.07.2016 (Annexure No.-1) which is under challenge through this O.A.

3. In this O.A. we need to adjudicate whether applicant's husband was eligible for grant of Honorary Commission on the basis of his overall service profile.

4. Learned counsel for the applicant submitted that policy letter dated 23.09.1998 read with Army Order 46/1980 stipulates that an individual placed in low medical category was required to exercise an option for retention in service. He further submitted that the applicant's husband had opted to continue in service but the sheltered appointment being disallowed by Officer Commanding, 30 Infantry Brigade in terms of policy letter dated 02.07.2002, his discharge order was issued and he was discharged from service w.e.f. 31.01.2008 (AN).

5. Learned counsel for the applicant further submitted that the applicant's husband had rendered meritorious service in the Regiment with exemplary character and he had comparatively better service profile than the other Junior Commissioned Officers (JCOs) having similar length of service and who retired on the same date. It was further submitted that as per service profile of the applicant's husband he scored 53 marks during his

entire service but Subedar Hoshiar Singh who scored 52 marks was granted Honorary Commission on the occasion of Independence Day-2007 which is illegal and arbitrary. He pleaded for setting aside order dated 20.07.2016 passed by respondent No. 5 and issuing directions to the respondents to consider award of Honorary Commission to applicant's husband on 15.08.2007 and 26.01.2008.

6. On the other hand, learned counsel for the respondents submitted that applicant's husband was serving in low medical category with 30 Infantry Brigade. It was further submitted that due to non availability of sheltered appointment, Officer Commanding, 30 Inf Bde did not recommend him to continue in service due to avoidance of holding of surplus manpower beyond the sanctioned strength of the Regiment in terms of policy letter dated 02.07.2007, therefore, his discharge order dated 07.11.2007 was issuezd.

7. Learned counsel for the respondents further submitted that on the basis of directions issued by Ministry of Defence (Army) vide letter dated 12.04.2007 and 02.07.2007, date of retirement of applicant's husband was proposed from 31.07.2008 to 31.12.2007 due to him being placed in low medical category, and thus, he became ineligible for grant of Honorary Commission on active list in accordance with para 4 (b) of policy letter dated 20.08.1982. It was further submitted

that this was the reason that letter dated 30.07.2007 was floated by Records, The Rajput Regiment for cancellation of recommendation form and date sheet for grant of Honorary Commission of lieutenant in active list.

8. Learned counsel for the respondents further submitted that consequent to issue of Ministry of Defence letter dated 08.10.2007 date of retirement in respect of the applicant's husband was re-scheduled from 31.12.2007 to 31.01.2008 to give a chance for grant of Honorary Commission of lieutenant on active list on the occasion of Republic Day-2008, but being low in merit he could not be granted Honorary Commission. He however, submitted that he was granted Honorary rank of Lieutenant w.e.f. 01.08.2008 after retirement.

9. Learned counsel for the respondents further submitted that based on order dated 04.01.2016 passed by this Tribunal in O.A. No. 77 of 2012, speaking and reasoned order dated 20.07.2016 was issued by the competent authority in which it is stated that he could not get Honorary Commission on active list due to low in merit. He pleaded for dismissal of O.A.

10. Heard learned counsel for the parties and perused the record. We have also perused the original record produced in Court on behalf of the respondents.

11. Applicant's husband was enrolled in the Army on 21.04.1978. He rose up to the rank of Subedar Major w.e.f.

01.08.2004. While in service, prior to his promotion, he was placed in low medical category S1H1A1P3(temp)E1 w.e.f. 23.08.2001 which medical category was converted into permanent medical category S1H1A1P2(P)E1 w.e.f. 18.08.2002. Since applicant's husband was serving in low medical category, as per policy letter dated 23.09.1998, he exercised option to continue in service in low medical category, but HQ 30 Inf Bde did not allow him sheltered appointment to avoid holding of surplus manpower beyond the sanctioned strength of the Regiment in terms of policy letter dated 02.07.2007. Subsequently, on denial of sheltered appointment, his discharge order was issued w.e.f. 31.12.2007 (AN). Later, keeping in view to provide chance for grant of Honorary Commission on active list, his discharge order was re-scheduled from 31.12.2007 to 31.01.2008.

12. The record shows that recommendation forms for grant of Honorary Commission on the occasion of Independence Day-2007 (first chance) and on the occasion of Republic Day-2008 (last chance) were received by Army Headquarters in time. In both the chances, husband of the applicant was not granted Honorary Commission on active list being low in merit.

13. Honorary 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 profile and

performance including medical category of a JCO 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 hundred 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 Command Headquarters to ensure accuracy. The award of Honorary Commission is based on merit and pro rata basis vis-a-vis vacancies allotted by the Govt.

14. We have perused the original documents produced by the respondents. The gist of said documents is reproduced as under:-

(i) The case of applicant's husband was considered for grant of Honorary Commission in two chances category on the occasion of Independence Day-2007 with last chance category on Republic Day-2008. On the occasion of Independence Day-2007, applicant's husband scored 46 marks against the cut-off 52 marks in the merit list. Subedar Hoshiar Singh who was the last person in the merit list scored 52 marks and granted Honorary Commission as lieutenant. The applicant's husband

having scored 46 marks in the list was not eligible for grant of Honorary Commission.

(ii) On the occasion of Republic Day-2008 applicant's husband scored 46 marks against the cut-off 49 marks in the merit list. Subedar Ram Karan who was the last person in the merit list scored 49 marks and granted Honorary Commission. The applicant's husband having scored 46 marks in the list was not eligible for grant of Honorary Commission.

15. Having given our thoughtful consideration, we find that applicant's husband lacked grant of Honorary Commission on Independence Day-2007 due to points scored on operational service. Subedar Hoshiar Singh, who was granted Honorary Commission scored 28 points for operational service whereas applicant's husband scored 15 points. Further, on the occasion of Republic Day-2008, Subedar Ram Karan scored 26 points for operational service whereas applicant's husband scored 15 points. This, in our view this has been the main reason of non grant of Honorary Commission to the applicant's husband.

16. Hence, from the aforesaid, it is clear that applicant's husband could not find place in the merit list on both the chances and therefore, he was not granted Honorary Commission of Lt. as per rules/policies on the subject in a fair and legal procedure followed by the respondents. Final selection is, however, based on comparative merit and the applicant's

husband missed out on selection due to his being lower in merit in comparison to the others considered.

17. Notwithstanding the above, perusal of record submitted by the respondents indicates that the service profile of applicant's husband outside India and field service within India, as also his service medals had been included while considering him for Honorary Commission. It is evident that the applicant's husband had missed out on selection purely on inter se merit.

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

19. No order as to costs.

20. Pending misc application(s), if any, shall stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated: 27.02.2025
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RESERVED

Court No 2

Form No. 4

{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH,

LUCKNOW

O.A. No. 230 of 2017

Smt Urmila Devi Chauhan — Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & Ors — Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	27.02.2025 Hon'ble Mr. Justice Anil Kumar, Member (J) Hon'ble Maj Gen Sanjay Singh, Member (A) 1. Judgment pronounced. 2. O.A. No. **230** of **2017** is dismissed. 3. For orders, see our judgment and order passed on separate sheets. (Maj Gen Sanjay Singh) Member (A) — (Justice Anil Kumar) Member (J) *rathore*