

Court No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 729 of 2020**

Monday, this the 23rd day of May, 2022

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

No. JC-376941A Ex Sub/Hony Sub Maj Hari Ram, R/o 592Jha/463, Ratheendra Nagar, Telibagh, PO- Vrindavan Colony, Lucknow, UP- 226029.

..... Applicant

Learned counsel for the Applicant : **Shri Manoj Kumar Awasthi and Shri Ansuman Srivastava, Advocate.**

Versus

1. Union of India, through Secretary, Ministry of Defence, (Army)South Block, New Delhi- 110010.
2. Chief of the Army Staff, IHQ MoD (Army), South Block, New Delhi.
3. The Officer in Charge Records, Signal Records, Post Bag No. 5, Jabalpur (MP) 482001.
4. 11 Corps Signal Regiment, PIN 916911, C/o 56 APO.

.....Respondents

Learned counsel for the Respondents. : **Shri Yogesh Kesarwani, 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:-

- (A) *To direct the respondents to set aside quash the order dated 12.07.2019 passed by respondents.*
- (B) *To issue /pass an order or directions to the respondents to grant rank of Hony Lt/ Capt notionally in active service and subsequently grant consequential benefits for the same rank of Hony Lt/Capt from date of discharge i.e. 01.05.2013 alongwith @ 12 @ interest on arrear.*
- (C) *To issue any such other and further suitable order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*
- (D) *To allow this original application with costs.*

2. Brief facts of the case are that the applicant was enrolled in the Indian Army on 15.04.1983. He was discharged from service on 01.05.2013 after completion of 30 years and 16 days of service. The applicant was not granted Hony rank of Lt/ Capt at the time of discharge. Applicant submitted representation against non grant of Honorary Commission which was rejected vide letter dated 12.07.2019. Being aggrieved for non grant of Hony Commission, applicant has filed this O.A.

3. Learned counsel for the applicant submitted that applicant did his best in performance of duties and thereafter was discharged from service on completion of terms of engagement. Before discharge from service, applicant was issued Show Cause Notice dated 03.04.2013 and a Court of Inquiry was convened vide order dated 06.06.2012 to investigate the circumstances under which certain stores of 11 Corps Signal Regiment were found missing on 05.06.2012. Applicant submitted his reply that he had checked store physically during Annual Stock Taking Board for the year 2011-2012. As such, he is not responsible for loss of stores.

4. Learned counsel for the applicant submitted that the applicant was provided two chances for grant of Hony Commission on active service on the occasion of Independence Day- 2012 and Republic Day 2013, but neither he was granted Hony Commission on both occasions in active service. After discharge from service, applicant was awarded Hony rank of Sub Maj on the occasion of Independence Day- 2013 without any consequential benefits as per policy for ibid rank. Applicant was having good ACR grading and no punishment was awarded to him during his entire service period. Applicant has been unjustly and arbitrarily denied grant of Hony Commission while on Active service. Learned counsel for

the applicant pleaded that directions be issued to respondents to grant rank of Hony Lt/Capt notionally in active service from the date of discharge i.e. 01.05.2013.

5. On the other hand, learned counsel for the respondents submitted that rank of Hony Commission is an award in recognition of the services of a soldier. The same cannot be sought for as a matter of right. Rank of Hony Commission is granted as per the policy in vogue. As per Integrated Headquarters of Min of Def letter dated 16.05.2008 **“All Ris Maj/ Sub Maj and Ris/ Sub of the Regular Army including those of Defence Security Corps and Territorial Army will only be considered for grant of Hony Commissions on the active list in the last year of their colour service in two chances.”**

6. Applicant was considered for grant of Hony Commission in active list on the occasion of Independence Day- 2012 and Republic Day- 2012. Recommendation forms for the both occasions were forwarded to Integrated Headquarters of Min of Def (Army), Ceremonial Welfare Directorate vide letter dated 13.02.2012 based on data held with his service documents. Signals Records had processed the documents of the applicant for grant of Hony Commission in accordance with existing rules and

regulations. Integrated Headquarters of Min of Def examined the case of the applicant but he was not granted Hony Commission on both the occasions as the consideration is purely based on merit. However, as per para 18 of Integrated Headquarters of Min of Def letter dated 16.05.2008, the applicant was granted rank of Hony Sub Maj after retirement on the occasion of Independence Day 2013.

7. The applicant had asked certain documents pertaining to grant of Hony rank through Right to Information Act 2005 dated 31.01.2019 which were provided to him vide letter dated 02.03.2019. The applicant preferred an appeal dated 15.03.2019 which was replied vide letter dated 23.04.2019.

8. Hony Commission being an award and not a promotion is awarded only to the most deserving soldiers who are disciplined and whose record of service are unblemished. The award of Hony rank implies conferment of certain distinction and is a indication of significant achievement, towards the end of a soldier's career. Applicant could not come in merit list, hence he was not granted Hony Rank of Lt/Capt in active list. He pleaded for dismissal of O.A.

9. We have perused the material placed on record, case law and heard arguments of both parties. The moot question which needs adjudication is whether applicant is entitled for grant of Hony Commission on Active List?

10. 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 a JCO is taken into consideration while making final list for grant of Hony Commission. The system of processing of recommendations for Hony 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 Hony Commission is based on merit and pro rata basis vis-a-vis vacancies allotted by the Govt. The Selection Board examines length of service including overall service performance, achievements, awards and achievements in sports, instructional duties, conduct and discipline etc.

11. The applicant was not awarded rank of Hony Lt/ Capt because he did not come in the merit list despite being eligible, and because of limited number of vacancies. The award of Hony Rank is granted by the competent authority in recognition of certain unique achievements and distinguished service profile during the course of service and is granted at the end of service so that it can provide inspiration to other soldiers. Thus, we find no merit in the contention put forward by the applicant. Applicant could not come in merit , hence he was not granted rank of Hony Lt/Capt in active list.

12. We are of considered opinion that the case of the applicant rests on very weak foundations both on ground of law and equity. In the end nothing survives in this O.A. and the same is accordingly **dismissed**.

13. No order as to costs.

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

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

Dated: 23 May, 2022

Ukt/-