

Court No.1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 389 of 2018**Friday, this the 25th day of March, 2022**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

P.No. 161492B Ex. MCPO I (GS) GSI, Sitaram Singh, S/o Late Jagdish Singh, Resident of House of No.3/1523, Rampur, Ramnagar, Varanasi, U.P.-221008.

..... ApplicantLearned counsel for the Applicant : **Shri Pankaj Kumar Shukla, Advocate.**

Versus

1. Union of India, through Secretary, Ministry of Defence, (Navy) New Delhi- 110011.
2. Chief of the Naval Staff, Defence (for PDOP/PDS) Integrated Headquarters, Ministry of Defence, (Navy) 'C' Wing Sena Bhawan, New Delhi-110011.
3. The Commodore [For SSO (Promotion)], Bureau of Sailors, Sion-Trombay Road, Mankhurd, Mumbai-400088.
4. Commanding in Chief, Headquarters, Eastern Naval Command, Naval Base, Visakhapatnam-530014.
5. The Commanding Officer, INS Circars, Naval Base, Visakhapatnam-530014.

.....RespondentsLearned counsel for the Respondents. : **Shri D.K. Pandey
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 issue /pass an order to set-aside /quash the order dated 14.03.2018 for non grant of Honorary Commission on Special Duty to the applicant.*
- (B) *To issue /pass an order or directions to the respondents to consider the applicant for grant of honorary Commission on Special Duty to the applicant on occasion of Independence Day,2017 and subsequently Republic Day 2018.*
- (C) *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.*
- (D) *To allow this original application with costs.*

2. Brief facts of the case are that the applicant was enrolled in the Indian Navy on 25.08.1984. He was discharged from service on 31.07.2018 as a Master Chief Petty Officer (MCPO) after completion of more than 33 years of service. Applicant was tried Summarily by Commanding Officer, INS Venduruthy under Section 41 (c) of the Navy Act 1957 and awarded punishment of Admonition (No. 14) vide letter dated 17.09.2014. The applicant was required to be considered for Hony Commission on special duty on two occasions, i.e. first chance on 15.08.2017 and second chance on 26.01.2018. On 15.08.2017 and on 26.01.2018, lists of

MCPOs awarded Hony Commission on special duty on the occasion of Independence Day 2017 and Republic Day 2018 was published and applicant was not granted Hony Commission special duty. Since applicant was not granted Hony Commission special duty on both the occasions, he submitted Statutory Petition dated 17.08.2017 and 30.01.2018 for redressal of his grievances. Integrated Headquarters of Ministry of Defence (Navy) Dte of Personnel Service, New Delhi rejected the applicant's redressal application for grant of Hony Commission on the ground that Sailor did not meet the criteria of having maintained unblemished record of service throughout his career. Being aggrieved for non grant of Hony Commission, applicant has filed this O.A.

3. Learned counsel for the applicant submitted that applicant put his best in performance of duties and thereafter released from service as a MCPO 1 (GS) GS 1. Applicant was tried summarily under Section 41 (c) of the Navy Act 1957 and he was awarded punishment of Admonition (No 14) vide letter dated 17.09.2014. Learned counsel for the applicant submitted that when a sailor is found guilty of an offence which is not considered to deserve anymore serious punishment, he is awarded Admonition. Admonition is a type of punishment by which an accused person is discharged after warning him that if the offence is committed

again, he would be punished with severity. Learned counsel for the applicant pleaded that AS Yadav, MCPO was awarded Hony Commission on special duty on Republic Day 2018 while he was awarded of Admonition due to found responsible for loss of diverter of GKT-2 during TEM-3 operations. Learned counsel for the applicant pleaded that there are several navy individuals awarded Hony Commission on special duty being granted admonition No 14, Viz Naurang Singh and Vinod Kumar. Learned counsel for the applicant pleaded that if a navy person being admonished granted Hony Commission on special duty, then why applicant cannot be granted Hony Commission. Applicant has been unjustly and arbitrarily denied grant of Hony Commission on Special Duty.

4. Prior to release from service recommendation for grant of Hony Commission to applicant was forwarded vide letter No 15.05.2017. Thereafter verification certificate correcting Instructor Duty period of the applicant was forwarded. In spite of best service profile and strong recommendation, applicant was not granted Hony Commission special duty. His representation for grant of Hony Commission was rejected vide letter dated 14.03.2018. Learned counsel for the applicant pleaded that impugned order dated 14.03.2018 rejecting claim of the applicant for grant of Hony

Commission be quashed and respondents be directed to grant Hony Commission to the applicant.

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 sailor. The same cannot be sought for as a matter of right. Rank of Hony Commission is granted as per the policy in vogue. The applicant while serving at INS Venduruthy/ Seamanship School was indicted by a Board of Inquiry for being negligent in ensuring locking of keyboard held in training office and was also negligent in not maintaining key register at training office to keep record of keys drawn from training office key board. The negligence and non adherence to procedures by the sailor resulted in loss of government property consisting of two sets of thin client and a VPU from the classroom of Seamanship School. Consequently, the sailor was tried summarily and he was awarded punishment of Admonition (No 14). The applicant was awarded punishment of Admonition (No 14) (provided under Regulation 13 of Regulations for the Navy Part II (Statutory) for the offence of failure to perform or negligently perform the duty imposed on him. Clause 2 of Regulation 70 also states that **'the offence and the punishment shall be recorded'**. The applicant was found guilty during the course of summary trial

and awarded punishment listed under para 81 (I) of the Navy Act, 1957. Such acts do not fall in the category of minor punishment, besides punishment has been awarded on charges related to acts prejudicial to good order and Naval discipline. Considering the outcome of investigation and subsequent issuance of warning to the sailor, the Board not recommended the sailor for the award of Hony Commission. Para 4 of IHQ MoD (N)/DPS letter No HA/0103/2012 dated 04 Jul 13 stipulates that MCPOs with 'Unblemished record of service throughout the career be considered for grant of Hony Commission'. Hence, the Board did not consider the sailor for award of Hony Commission on 15.08.2017 and 26.01.2018. A Master Chief Petty Officer (MCPO) is considered for grant of Hony Commission only when an "unblemished record of service" is maintained throughout the service. The applicant being indicated for the offence of failure to perform or negligently perform the duty did not meet the said criteria for grant of Hony Commission. His further averment is that applicant submitted a representation requesting for considering his name for grant of Hony Commission. His representation was replied vide letter dated 14.03.2018 explaining therein the reasons for his non consideration. Hony Commission being an award and not a promotion is awarded only to the most deserving sailors who are disciplined and whose record of service are unblemished.

The award of Hony rank implies conferment of certain distinction and significant achievement towards the end of a sailor's career. Learned counsel for the respondents submitted that when the Board was constituted for the award of Hony Commission on the occasion of Republic Day 2018, no letter was received from HQ Eastern Naval Command/ Bureau of Sailors, Mumbai against disciplinary ground of AS Yadav. The learned counsel concluded that since applicant was awarded punishment of Admonition, he was not considered for grant of Hony Commission. He pleaded for dismissal of O.A.

6. We have perused the material placed on record, case law and heard arguments of both parties.

7. In this case the moot question which needs adjudication is that whether a person awarded punishment of Admonition is eligible to be considered for Hony Commission?

8. Honorary Commission is granted to sailors on the occasion of Republic Day and Independence Day. The entire profile and performance including medical category of the sailor is taken into consideration while making final list for grant of Hony Commission. The system of processing of recommendations for Hony Commission is computerised. 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 sailors are authenticated by the concerned authorities and any amendment to the basic data is processed after ensuring accuracy. The award of Hony Commission is based on merit and vacancies allotted by the Govt.

9. Detailed guidelines for grant of Hony Commission to MCPO have been given in Para 4 of Navy Order 25 of 2011. Para 4 (f) of Navy Order states that MCPOs will be considered for grant of Hony Commission where 'Unblemished record of Service' is maintained throughout the service. The Selection Board examines length of service including sea service, overall service performance, achievements, awards and achievements in sports, instructional duties, conduct and discipline etc. This criteria was revised by way of letter dated 04.07.2013. Accordingly, only MCPOs with 'Unblemished record of service' are entitled to be considered for grant of Hony Commission. Deferment and subsequent grant of Hony Commission with a retrospective date are governed respectively by para 2 and para 6 of Navy Order (Str) 01.02.2010. As per this policy where charges have been framed against the sailor by the competent authority or when

indicted by a BOI/OMI, deferment and subsequent grant of Hony Commission will be governed with a retrospective date.

10. From the pleadings on record we find that applicant was awarded punishment of Admonishing, hence he could not come in merit for grant of Hony Commission.

11. The Naval order as well as the policy that has been referred specifically mentioned '**unblemished record**' as a criteria for grant of this award. The applicant was not awarded the Hony Commission because he was not meeting the eligibility criteria as given out in the Naval Order as well as in the policy. 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 sailors. The applicant was found guilty in Board of Inquiry and awarded punishment of Admonition (No 14). The applicant cannot be construed to be having an 'unblemished record' and hence does not meet the eligibility criteria. Thus, we find no merit in the contention put forward by the applicant.

12. We are of considered opinion that the case of the applicant rest 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: 25 March, 2022

Ukt/-