

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 145 of 2022**Monday, this the 6th day of February, 2023**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Atul Kumar Jain, Member (A)No. JC-491001F Ex Sub/Clk Ram Kumar Nadar
S/o Late Mahabir Singh
R/o Vill & PO – Ferozpur,
Distt – Bulandshahr (UP) – 203131**.... Applicant**Ld. Counsel for the Applicant : **Shri Ashok Singh**, Advocate &
Shri Vikas Singh Chauhan, Advocate

Versus

1. Union of India, Through its Secretary, Government of India, Ministry of Defence, New Delhi-110011.
2. Chief of the Army Staff, IHQ of MoD (Army), DHQ PO, New Delhi – 110011.
3. Ceremonial & Welfare Directorate/CW-2, Adjutant General's Branch, Integrated HQ of MoD (Army), South Block, Room No 279C, DHQ PO, New Delhi – 110011.
4. OIC, Records the JAT Regiment, PIN-900496, C/o 56 APO.
5. Principal Controller of Defence Account (Pension), Draupadi Ghat, Allahabad.

... RespondentsLd. Counsel for the Respondents : **Shri Amit Jaiswal**,
Central Govt 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:-

- “8.1 To quash/set aside the basic order dated 09 Sep 2021 on which affirming the impugned order dated 11 Nov 2021, passed by the OIC Records the JAT Regiment as a Annexure No. A-1 with compilation No. 1 to this original Application and passed the order or direction to the Respondents to consider if the Clerks Training School of The JAT Regiment comes under the Ministry of Defence could be treated as Category ‘A’ establishment for the grant of points for grant of Honorary rank/Commission.
- 8.2 Issue an appropriate order or direction as this Hon’ble Tribunal may deem fit and proper in the demand of justice.
- 8.3 Issue an order or direction awarding the cost of the application together with all legal expenses incurred by the applicant.”

2. Brief facts of the case are that applicant was enrolled in the Army on 01.10.1990. He was promoted to the rank of Naib Subedar on 01.10.2013 and Subedar on 01.03.2016. The applicant attended NCO Clerk course at JAT Regimental Centre w.e.f. 07.05.2012 to 30.06.2012 wherein he obtained ‘A1’ grading. Thereafter, he was posted as Instructor at JAT Regimental Centre (Category ‘B’ establishment) for imparting technical training w.e.f. 12.03.2013 to 01.11.2014 and from 14.04.2018 to 30.09.2020. The applicant was considered for grant of Honorary Commission on active list in first chance on Republic Day 2020 and in second chance on Independence Day 2020 but he could not make out in the merit for grant of Honry Commission as Lieutenant on both the chances of Republic Day 2020 and Independence Day 2020. The applicant submitted representations dated 29.07.2021 and 02.10.2021 to

include points of Instructor of his 4 years tenure at JAT Regimental Centre but the same was rejected by the respondents vide letter dated 20.09.2021 and 11.11.2021 respectively. Being aggrieved, the applicant has filed the present Original Application for grant of Honorary Commission of Lt.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Indian Army on 01.10.1990 and was discharged from service in the rank of Subedar on 30.09.2020 (AN) on fulfilment of his service tenure of 30 years. During the service, the applicant served in four Operational Areas from Jan 1993 to July 1995 in Manipur, from August 2001 to 2003 and from 2009 to 2011 in J&K and from Nov. 2014 to Jun. 2017 in Nagaland. The applicant was detailed for 'Instructor' duty at Clerk Training School w.e.f. 2012 to 2014 in Category 'B' establishment. The applicant also performed Head Clerk duties in Battalion from 2009 to 2011 and from Dec. 2014 to Sep 2017 and earned 'Outstanding' ACRs. In spite of having served with utmost dedication, devotion and sincerity in Operational Areas, performed Head Clerk and Instructor duties and earned Outstanding ACRs, the applicant has not been considered for grant of Honorary Commission on Republic Day 2020 and Independence Day 2020 in a very illegal and hypothetical manner by way of creation of unlawful policies whereas it is learnt that some juniors (Sub Ramesh Saikia and Sub Ganesh Bahadur) have been granted honorary rank of Lt. and Capt. in an illegal, arbitrary and erroneous manner.

4. Learned counsel for the applicant further submitted that applicant has served as an Instructor at Clerks Training School of JAT Regimental Centre from 2012 to 2014 and from Apr. 2018 to Sep. 2020 but the applicant being entitled for four marks for his service tenure as Instructor has been denied illegally while considering his case for grant of honorary rank on both the chances and thus, applicant has been granted lesser points. The applicant submitted a representation dated 29.07.2021 for inclusion of points of Instructor duty but the same has been rejected by the respondents vide order dated 20.09.2021 quoting wrong policy letter dated 11.05.2009 of IHQ of MoD (Army). The applicant again filed a representation/appeal dated 02.10.2021 to consider points of Instructor duties but it was again rejected by the respondents vide order dated 11.11.2021 without considering the true facts and reasons justified by the applicant for granting four points of Instructor duties being legally applicable to him.

5. Learned counsel for the applicant further submitted that new policy of IHQ of MoD (Army) dated 11.05.2009 is totally contradictory and against the Fundamental Rights and therefore, it should not be given retrospective effect to the applicant's career. He pleaded that applicant be granted four points of his services rendered as Instructor in Clerks Training School of the Jat Regimental Centre and accordingly, adding points of Instructor duties, he should be granted Honorary rank/Commission.

6. On the other hand, learned counsel for the respondents submitted applicant attended NCO Clerk Course at Jat Regimental Centre from 07.05.2012 to 30.06.2012 and obtained 'AI' grading. Thereafter, he was posted as Instructor at JAT Regimental Centre for imparting technical training w.e.f. 12.03.2013 to 01.11.2014 and from 14.04.2018 to 30.09.2020 which is a Category 'B' establishment. As per IHQ of MoD (Army) letter dated 16.05.2008 as amended from time to time, Subedars and Subedar Majors are considered for grant of Honorary Commission on active list in the last year of their service in two chances, i.e. on Republic Day and Independence Day. Accordingly, Master Sheet of applicant duly verified by the unit was sent to concerned Command Headquarters by the Record Office for consideration for grant of Honorary Commission on the occasion of Republic Day 2020 for first chance but the applicant could not make out in the merit and for second time on Republic Day 2020, the applicant could not make out in the merit in the last chance also.

7. Learned counsel for the respondents further submitted that as per IHQ of MoD (Army) letter dated 11.05.2009, 'No Weightage' is accorded to Instructor posted for NCO Clerk Course or Recruit Clerk Course at Regimental Centre. Accordingly, the tenure of 4 years at the JAT Regimental Centre was not included in the Master Sheet nor claimed by the applicant when Master Sheet received back from the unit duly verified. Therefore, as per procedure, Data Sheet and Recommendation Roll in respect of the applicant for grant of Honorary Commission on the occasion of Republic Day 2020 and

Republic Day 2020 was submitted to Command Headquarters, however, in active list, the applicant could not make out in the merit for grant of Honorary Commission as Lieutenant on the occasion of Republic Day 2020 & Independence Day 2020.

8. Learned counsel for the respondents further submitted that applicant submitted a petition dated 02.10.2021 seeking revision/reconsideration of policy dated 11.05.2009 for inclusion of points of Category 'B' establishment Instructor duties which was suitably replied/clarified vide JAT Records letter dated 11.11.2021 stating that policy dated 11.05.2009 is commonly applicable for all personnel of Indian Army and no points for Category 'B' establishment Instructor duties are granted for consideration of Honorary Rank. Since, the name of applicant has not come in the merit during both the chances, hence he was not awarded honorary rank of Lieutenant in the active list.

9. Learned counsel for the respondents placed 'Nominal Roll of JCOs Recommended for Grant of Honorary Commission on Republic Day 2020 and Independence Day 2020' for perusal of the Bench and submitted that Sub Bhupinder Singh got 52 points who was granted Honorary Rank of Lt. on Republic Day 2020 whereas applicant got only 44 points and could not make place in the merit/cut off. Similarly, in second/last chance of Independence Day 2020, Sub Ram Kumar got 45 points in second chance of Independence Day 2020 and he was granted Honorary Rank of Lt. on Republic Day 2020 whereas applicant got only 44 points and could not make place in the merit/cut

off list. Hence, from the aforesaid, it is clear that applicant could not find place in the merit and therefore, he was not granted honorary rank of Lt. He pleaded for dismissal of Original Application being devoid of merits.

10. We have perused the records and analysed the submissions of both the counsels and find that applicant has not come in the merit on both the chances as per criteria laid down in the policies dealing with the subject, hence, his prayer has no force.

11. We also find that applicant's claim for inclusion of four points for his Instructor tenure at JAT Regiment Centre, Category 'B' establishment has been denied/not included in the Master Data Sheet as per policy on the subject and not otherwise as alleged by the applicant. A comparison of 'Nominal Roll of JCOs Recommended for Grant of Honorary Commission on Republic Day 2020 and Independence Day 2020' placed before the Bench shows that applicant got lesser points in comparison to Sub Bhupinder Singh on Republic Day 2020 and in last chance of Independence Day 2020, applicant got lesser points in comparison to Sub Ram Kumar. Hence, from the aforesaid, it is clear that applicant could not find place in the merit list on the both chances and therefore, he was not granted honorary rank of Lt. as per rules/policies on the subject in a fair and legal procedure followed by the respondents. Thus, no injustice has been done to the applicant and there is no violation of provisions of Paras 177, 178, 179 and 184 of the Regulations for the Army, 1987.

12. In view of above, Original Application is devoid of merit and is liable to be dismissed. It is accordingly **dismissed**.

13. No order as to costs.

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

(Vice Admiral Atul Kumar Jain)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 6th February, 2023
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