

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 274 of 2016**Monday, the 25th day of October, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)Rajendra Prasad Singh, JC No.-450296N
S/o Late Jagat Narayan Singh
R/o Village – Babhiniyawan, Post Office – Kuindurkha Khurd,
District – Faizabad**.... Applicant**Ld. Counsel for the Applicant : **Shri B.K. Singh**, Advocate.

Versus

1. Union of India, through Secretary Ministry of Defence, New Delhi.
2. Senior Records Officer for Officer Incharge Records (OIC), The Grenadiers Regiment, PIN – 908776, C/o 56 APO.
3. Command Headquarters/Integrated Headquarters of Ministry of Defence (Army), CW-2, New Delhi.

... RespondentsLd. Counsel for the Respondents : **Shri Bipin Kumar Singh**,
Central Govt Counsel**ORDER**

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

- “(a) Direct the department/opposite party to decide the honorary promotion of the applicant to the next higher post i.e. Lieutenant alongwith arrear, privilege of interest and consequential benefits to the appellant, since

26.01.2014, in the interest of justice, within stipulated period.

- (b) Pass any order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.
- (c) Allow the Original Application with costs in favour of the petitioner.”

2. Brief facts of the case are that applicant was enrolled in the Indian Army on 21.03.1984 and was discharged from service on superannuation w.e.f. 31.03.2014 after rendering more than 30 years of service. The applicant was promoted to the rank of Subedar w.e.f. 27.11.2008. As per IHQ of MOD letter dated 11.05.2009 Recommendation Roll of all affected Junior Commissioned Officers (JCOs) were processed to IHQ of MOD (Army) for consideration for grant of Honorary Commission to the rank of Lieutenant as First Chance on the occasion of Independence Day 2013 (15.08.2013) and Last Chance on the occasion of Republic Day 2014 (26.01.2014). The Recommendation Roll included the name of the applicant who was due for discharge from service w.e.f. 31.03.2014. The applicant was considered for grant of Honorary Commission on the occasion of 15.08.2013 and 26.01.2014 but he was not conferred Honorary Commission on both the occasions being not selected in the merit list against the allotted vacancies. Being aggrieved with the order dated 12.03.2019, the applicant has preferred the present Original Application.

3. Learned counsel for the applicant submitted that applicant was considered for honorary rank on two occasions i.e. on 15.08.2013 and

26.01.2014 but not granted. The applicant completed more than 30 years of service with full satisfaction and devotion and there is no adverse material against the applicant in his entire service record. He was graded AX grading in Unit Education Instructors Course and Infantry Regiment Signallers (NCOs) course, A1 grading in Junior Leader Academy course, completed diploma in Supervisory Management and completed basic computer orientation programme from NIIT and was awarded nine medals for his distinguished service.

4. Learned counsel for the applicant further submitted that opposite parties have not taken any action on the request of the applicant then applicant again moved an application dated 28.03.2016 but reply dated 08.04.2016 received from the respondents is not a reasoned and speaking reply. The applicant asked information under RTI regarding honorary promotion of Subedar Udai Beer Singh vide application dated 09.05.2016 but reply dated 25.05.2016 received from the respondents is not satisfactory. The applicant came to know that authorities concerned are going to fill up the post in question by adopting the pick and choose policy from person having less point/junior to the applicant which is totally illegal and against the provisions of law and policy on the subject. It is violation of Article 14 & 16 of the Constitution of India.

5. Learned counsel for the applicant also submitted that the case of the applicant is squarely covered by the judgment of AFT (PB), New Delhi in OA No. 98/2013, ***Ex Subedar Shyamlal vs. Union of India & Ors***, decided on 11.08.2015, in which the Bench passed the

order to consider the claim of the applicant for grant of honorary commission to the rank of Lt.

6. On the other hand, learned counsel for the respondents submitted that applicant was discharged from service on 31.03.2014 after rendering more than 30 years of service in the rank of Subedar. The applicant was promoted to the rank of Nb Sub w.e.f. 02.01.2007 and Subedar w.e.f. 27.11.2008. As per IHQ of MOD letter dated 11.05.2009 'Recommendation Roll' of all affected Junior Commissioned Officers (JCOs) were processed to IHQ of MOD (Army) through concerned Command Headquarters for consideration for grant of honorary Commission to the rank of Lieutenant as First Chance on the occasion of Independence Day 2013 (15.08.2013) and Last Chance on the occasion of Republic Day 2014 (26.01.2014). The Recommendation Roll included the name of the applicant who was due for discharge from service w.e.f. 31.03.2014. The Master Sheet contains the service particulars of the JCO, like Courses, Medals, Field Service, Awards and Decorations, Instructor duties, Foreign Country Service, Games & Medals won, Punishment details etc. The Master Sheet was prepared and forwarded to the applicant for checking its correctness and signature and thereafter it was forwarded to Grenadiers Records duly signed by applicant and countersigned by Commanding Officer vide letter dated 20.03.2012. The process of making merit list and other procedure being followed by Army HQ is Confidential and the same is not known to Record Office. The applicant was considered for grant of Honorary

Commission on the occasion of 15.08.2013 and 26.01.2014 but he was not conferred Honorary Commission on both the occasions being not come in the merit list against the allotted vacancies.

7. Learned counsel for the respondents further submitted that selection of honorary commission is made strictly as per merit. Since applicant did not make merit in both the chances; he was not granted honorary commission on 15.08.2013 and 26.01.2014 respectively. He also submitted that award of honorary commission is totally based on comparative merit list finalised at Army Headquarters as per the vacancies authorised on the basis of merit based on their complete service profile and performance during the entire service. Since, the name of applicant has not come in the merit during both the chances, hence he was not awarded honorary commission in the active list as per rules.

8. We have perused the records and analysed the submissions of both the counsels and find that applicant was considered for grant of honorary commission as a first chance on 15.08.2013 and as a second chance on 26.01.2014 but he did not make the merit against the vacancies allotted in both the chances. His case was considered as per criteria laid down in IHQ of MoD (Army) letter dated 11.05.2009 but applicant could not be awarded honorary commission being not made the merit as per merit list prepared by Ceremonial and Welfare Directorate (CW-2).

9. After perusing an extract of allotted marks (Confidential), placed before the Bench by the Departmental Representative, it is also

clarified that Sub Udai Beer Singh's case pertains to the year 2012 and not 2013, hence, applicant's statement that Sub Udai Beer Singh having secured 46 marks was granted Honorary Commission to the rank of Lt is incorrect and irrelevant. The applicant was not conferred Honorary Commission as per Gazette Notifications of Independence Day 2013 and Republic Day 2014 being not come in the merit.

10. In view of above, we do not find any illegality or illogicality in rejecting the claim of the applicant for grant of Honorary Commission to the rank of Lt. The O.A. is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

11. No order as to costs.

12. Pending Misc. Applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)

Member (A)

Member (J)

Dated: October, 2021

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