

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****Original Application No. 441 of 2019**Tuesday, this the 12th day of October, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

672100-A MWO Chaturbhuj Dwivedi (Retd)

S/o Shri (Late) Kanhaya Dwivedi

R/o 89C/1A Chak Ponghat, Chandrol Hospital Gali,

Ponghat Pul, Mundera, District – Prayagraj (UP) – 211011

.... **Applicant**Ld. Counsel for the Applicant : **Shri Shailendra Kumar Singh &**
Shri Ravi Kumar Yadav, Advocate.

Versus

1. Union of India, Through Secretary MoD (IAF), South Block, , New Delhi-110066.
2. Chief of Air Staff, Air Hqrs, Vayu Bhawan, New Delhi – 110011.
3. Dte of Air Veteran, DAV, Air HQ, Subroto Park, New Delhi – 110010.
4. OIC RW, Air Force Record Office, Subroto Park, New Delhi – 110010.
5. PCDA (P) (Air Force), Draupadi Ghat, Allahabad (UP) – 212114.

... **Respondents**Ld. Counsel for the Respondents : **Shri Rajiv Pandey,**
Central Govt Counsel**ORDER (Oral)**

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. To quash and set aside the respondent No. 5 letter dated 12 Mar 2019 (Annexure A-1 of instant OA & Impugned Order).
- B. To issue/pass an order or directions of appropriate nature to the respondents to grant Honorary Flying Officer Rank with ante date of Republic Day (26 Jan 2018) to pay the arrears accrued thereof along with suitable rate of interest as deem fit by this Hon’ble Tribunal.
- C. Any other relief as considered proper by the Hon’ble Tribunal be awarded in favour of the applicant.
- D. To direct the respondents to include MSM in the list of para 13(c) of AFO 10/2014.”

2. Brief facts of the case are that applicant was enrolled in the Indian Air Force on 04.10.1980 and was discharged from service on superannuation w.e.f. 31.05.2018. The applicant was considered for grant of honorary commission on the occasion of Independence Day (15.08.2017) as first timer alongwith 42 MWOs/WOs of his trade. He did not make the merit as he stood 20th against five vacancies allotted to his trade. He was again considered as second timer (last chance) for honorary commission on the occasion of Republic Day (26.01.2018) alongwith 36 MWOs/WOs of his trade, he did not make the merit as he stood 15th against 14 vacancies allotted to his trade. Therefore, applicant could not be granted honorary commission on both the occasions. The applicant preferred representation dated 28.01.2019 to the respondents which was replied by respondent No. 4 vide letter dated 12.03.2019 stating that applicant was considered for grant of honorary commission on 15.08.2017 and 26.01.2018 but could not qualify the merit in the trade. 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 awarded 'Meritorious Service Medal (MSM) with annuity on the occasion of Republic Day (26.01.2017) w.e.f. 15.08.2016 vide POR No. AFRO/1/2017. The MSM is awarded to selected air warriors from eligible categories of personnel who have a minimum of 15 years of service distinguished by highly good conduct with ratio of 4 for 800 men of the authorised establishment of the respective service. The applicant was considered for grant of honorary commission on 15th August 2017 as first timer but could not qualify the merit in his trade. AFO 10/2014 regulate procedure for grant of honorary commission and honorary rank to MWOs and WOs on the occasion of Republic Day and Independence Day. MSM is not considered for the marks allotted under the head 'Honours and Awards'. The applicant was again considered for grant of honorary Commission on the occasion of Republic Day i.e. 26.01.2018 as second timer but could not qualify the merit in his trade as he stood 15th against 14 vacancies allotted to his trade. However, RTI reply dated 20.11.2018 and respondents reply dated 12.03.2019 are contradictory about allotment of 13 and 14 vacancies respectively, showing variation of 1 vacancy in the reply.

4. Learned counsel for the applicant further submitted that applicant preferred representation dated 28.01.2019 to respondent No. 2 narrating justification and prayed for afresh consideration of his case for grant of honorary Flying Officer rank with ante date seniority

of 26.01.2018 which was replied by respondent No. 4 vide letter dated 12.03.2019 stating that applicant was considered for grant of honorary commission on 26.01.2018 as second timer but could not qualify the merit in the trade as he stood 15th against 14 vacancies allotted to his trade. Para 10 of Air Force Order 10/2014 regulates the grant of Honorary commission to consider various aspects for preparation of merit panel, i.e. ARs of last 10 years, AFO 12/2015 stipulated instructions for rendering Appraisal Reports, Para 37 of AFO 12/2015 describes grading of skill level to be awarded to Airmen and applicant was awarded Skill Grade 'A'. He pleaded to quash the order dated 12.03.2019 and grant Honorary Flying Officer Rank to the applicant alongwith arrears.

5. On the other hand, learned counsel for the respondents submitted that applicant was considered for grant of honorary commission on the occasion of Independence Day (15.08.2017) as first timer alongwith 42 MWOs/WOs of his trade. He did not make the merit as he stood 20th against five vacancies allotted to his trade. He was again considered as second timer (last chance) for honorary commission on the occasion of Republic Day (26.01. 2018) alongwith 36 MWOs/WOs of his trade, he did not make the merit as he stood 15th against 14 vacancies allotted to his trade.

6. 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 15.08.2017 and 26.01.2018 respectively. He

further submitted that eligibility criteria for award of MSM and grant of honorary commission are different and governed by different policies. MSM is being awarded as per Air HQ letter dated 13.08.2018 with the ratio of 4 for 800 men on the authorised establishment of the respective service and honorary commission is being granted as per Air Force Order 10/2014 as per vacancies allotted for the trade, hence, there is no interlinking between both the policies. He also submitted that eligibility criteria for award of MSM, raising of Appraisal Report and grant of honorary commission are different issues and governed by different policies. The applicant was holding skill level 'A' when he was considered for honorary commission on 15.08.2017, merit list as per AR marks was prepared and forwarded to Recording Wing to add the marks for honours and awards. Thereafter, final list as per merit was prepared and forwarded to Air HQ (Vayu Bhawan) for further action. On the occasion of 26.01.2018, a total of 36 aspirants of Clerk Accountants trade were eligible and out of 36, 14 vacancies were available and the applicant stood on 15th number, therefore, he could not be granted honorary commission on 26.01.2018. He also submitted that award of honorary commission is totally based on comparative merit list finalised at Air 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.

7. 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 15.08.2017 and as a second chance on 26.01.2018 but he did not make the merit against the vacancies allotted to his trade in both the chances. His case was considered as per criteria laid down in Air Force Order 10/2014 but applicant could not be awarded honorary commission being not made the merit.

8. It is also clarified that though MSM is awarded on the occasions of Republic Day or Independence Day for distinguished service but it is not included in list of 'Honours and Awards' for inclusion of marks for grant of honorary commission, hence, respondents have rightly rejected this prayer according to Air HQ letter dated 13.08.2018 and Air Force Order 10/2014.

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

10. No order as to costs.

11. 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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