

**RESERVED**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**ORIGINAL APPLICATION No. 128 of 2020**

Wednesday, this the 20<sup>th</sup> day of October, 2021

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

Ex-JC22671K, Subedar Major (Religious Teacher) Ran Bahadur Singh R/o Village and Post – Umra, District – Sultanpur, U.P. and presently residing at House No. 591 IYA/588 New Baldev Bihar Colony, Kharika Ward Telebagh, Lucknow.

..... Applicant

Ld. Counsel for the : **Shri Yashpal Singh**, Advocate.  
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi -11.
2. Chief of the Army Staff, Integrated Head Quarter MoD (Army), Army HQ, New Delhi.
3. Director General of Armed Forces Medical Services, Integrated Head Quarter of MoD Army, New Delhi.
4. Director General of Medical Services, Integrated Head Quarter of MD Army, New Delhi.
5. Additional Director General MP/MPS (I of R) Adjutant General's Branch Integrated Head Quarter (Army), West Block-III, RK Puram New Delhi-110066.
6. Officer-In-Charge Records, Army Medical Corps, PIN 900450, C/o 56 APO.
7. Commander No.2 Technical Training Battalion, AMC Centre and College, PIN 900450, C/o 56 APO.

.....Respondents

Ld. Counsel for the  
Respondents.

**Dr. Shailendra Sharma Atal**,  
Central Govt. Standing Counsel

## **ORDER**

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 or direction for setting aside/ order communiqué dated 13.08.2019 so issued by the opposite party No.6 by which the application so preferred by the applicant for grant of honorary commission/ rank has been rejected on totally nonest ground "Medical Categories" without considering the entire facts and material available on record.
- (b) To issue/pass an order or direction to the appropriate authority for grant of honorary commission/ rank by ignoring the medical categories, notionally from 26 January 2019 as first chance, in the interest of justice.

2. Brief facts of the case are that the applicant was enrolled in the Army Medical Corps (AMC) on 09.11.1991. He was promoted to the rank of Sub Maj on 01.11.2015 and discharged from service w.e.f. 01.11.2019 on completion of four years service in the rank of Sub Maj. Earlier on 06.04.2017 he was found to be suffering from (i) Simple Obesity (ICD-E66) and (ii) PIVDL5S1 Optd (M-51) and (iii) Primary Hypertension (ICD-110) on 19.07.2018 and he was placed in low medical category P2 (Permt). The applicant was required to be considered for Hony Commission on two occasions, i.e. first chance on 26.01.2019 and second chance on 15.08.2019. He was found ineligible to be considered for Hony Commission due to being placed in low medical category vide policy letters dated

16.05.2018, 03.07.2018 and Signal dated 18.10.2018. Since applicant was not considered for Hony Commission on 26.01.2019 due to being placed in low medical category, he submitted an application dated 22.04.2019 to Headquarters Central Command for his early review medical board. Accordingly, his physical condition was examined by Senior Medical Officer and he was not recommended for early review medical board in terms of policy constraints as stipulated in para 2 of IHQ, MoD (Army)/DGMS-5A policy letter dated 20.05.2019 (Annexure SCA-5) which lays down that 'no early review should be given once release order is issued.' Applicant had submitted an application dated 15.07.2019 for grant of Hony Commission which was rejected vide letter dated 13.08.2019 (Annexure-01 of O.A.). Being aggrieved for non consideration of Hony Commission, applicant has filed this O.A.

3. Learned counsel for the applicant pleaded that while preferring application dated 15.07.2019, Circular dated 29.06.2017 was annexed which clearly lays down that any disability occurred during military service should be attributable to military service as held in the Hon'ble Apex Court judgment in the case of ***Dharamvir Singh vs Union of India & Ors***, Civil Appeal No 4949 of 2013 decided on 02.07.2013. His further submission is that the impugned order dated 13.08.2019 is in contravention to Section 20 (3) of the Rights of Persons with Disabilities Act, 2016, wherein it has been held

that there shall be no discrimination in employment arising out of any disability and in Section 20 (3) it has been held that no promotion shall be denied to a person merely on the ground of disability and this statutory provision was subjected to violation when the impugned order was passed. He pleaded that a direction with regard to consideration of Hony Commission in respect of applicant be issued by quashing impugned order dated 13.08.2019.

4. On the other hand, learned counsel for the respondents submitted that being overweight and placed in low medical category, applicant became ineligible to be considered for Hony Commission as per policy letter dated 30.09.1996, 16.05.2008 and 03.07.2018. His further averment is that applicant submitted an application dated 15.07.2019 requesting for consideration of his name for Hony Commission but the same was replied vide letter dated 13.08.2019 explaining therein the reasons for his non consideration. The learned counsel concluded that since applicant was placed in low medical category especially for obesity, he became ineligible to be considered for Hony Commission. He pleaded for dismissal of O.A.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. 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 are 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.

7. In this case the moot question which needs adjudication is that whether a person placed in low medical category is eligible to be considered for Hony Commission?

8. From the pleadings on record we find that applicant was serving in low medical category for three disabilities viz. Simple Obesity (ICD-E66), PIVDL5S1-Optd (M-51) and Primary Hypertension (ICD-110) w.e.f. 06.04.2017. His name was not considered for selection in the list of Hony Commission for the reason that he was in low medical category.

9. We have perused para 7 (a) (iv) of policy letter dated 16.05.2008 and according to this, applicant was eligible for consideration of Hony Commission but this was substituted/amended vide letter dated 03.07.2018 vide which applicant became ineligible to be considered for Hony Commission. Letter dated 03.07.2018 has put an embargo for consideration of personnel placed in low medical category w.e.f. Independence Day 2019 but it was further clarified vide Signal dated 18.10.2018 that it was applicable w.e.f. Republic Day 2019 which made applicant ineligible to be considered for Hony Commission. For convenience sake, extracts of para 7 (a) (iv) of policy letter dated 16.05.2008, letter dated 03.07.2018 and Signal dated 18.10.2018 are reproduced as under:-

Policy letter dated 16.05.2008

*"7 (a) (iv). JCOs who become low medical category (temporary or permanent) due to any reason in the last year of their colour service (two years in the case of double decorees) will also be eligible for the grant of Honorary Commission/rank."*

Policy letter dated 03.07.2018

*"For*

*JCOs who become low medical category (temporary or permanent) due to any reason in the last year of their colour service (two years in the case of double decorees) will also be eligible for the grant of Hony Commission/rank.*

*Read*

*JCOs who become LMC (Temp or permt) in last yr of service for fwg will not be eligible for grant of Hony Commission:-*

- (a) LMC SHAPE-3 (except Battle Cas).*
- (b) Obesity.*
- (c) Psychological causes.*
- (d) Misconduct or self inflicted injuries”.*

Signal dated 18.10.2018

*“Clarification on med criteria (.) review of policy for grant of Hony Commission to JCOs and Dfrs and Havs (.) Ref this office letter B/43435/POLICY/AG/CW-2 Jul 03 (03) (.) policy guidelines issued vide this office letter under ref will be implemented wef Republic Day 2019 instead of Independence Day 2019”*

10. Thus, taking into consideration of aforementioned policies and guidelines, we are clear that applicant was not eligible to be considered for Hony Commission on Republic Day and Independence Day 2019.

11. In view of the above, the O.A. lacks merit and is accordingly **dismissed**.

12. No order as to costs.

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

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

Dated: 20.10.2021  
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