

ORDER**(PASSED IN COURT)**

1. Heard Shri K.C. Ghildiyal, Shri R Chandra, Ld. Counsel for the applicant and Shri D.K. Pandey, Ld. Counsel for the Respondents.

2. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act 2007 being aggrieved with the impugned order dated ... by which he

was communicated that two years service shall not be extended because the applicant has been placed in Low Medical Category (P2 permanent). Ld. Counsel for the Applicant submits that while assailing the impugned order, Ld. Counsel for the applicant submitted that it is not disputed that the petitioner has not submitted any statutory complaint under Section ___- of the Act. Ld. Counsel for the Respondents submitted that it is also not disputed that no order was communicated to the applicant by the authority concerned. He has approached this Tribunal that it has been informed that he has to go for discharge drill. There appears nothing on record that the applicant is not suffering from Low Medical Category. He attained the age of superannuation on 31.03.2013. Admittedly the applicant was retiring on 31.03.2013. He applied for extension of service which has been denied. Attention has been invited in regard to the amended policy dated 20.09.2010 which provides that all PBORs found suitable will be granted extension for 2 years.

Appendix 'A' provides that LMC personnel may be considered for extension of service subject to service conditions. Original policy with regard to extension of service dt 21.09.1998 has been amended with policy decision dated 20.09.2010. The relevant portion of the policy is reproduced as under :.....

Plain reading of the amended relevant portion containing para 20 is reproduced as under.....

It shows that extension of service is subject to conditions required to be fulfilled by the person requires extension. It shows that the PBOR should be physically fit in the category as laid down in this regard in the yard stick. The eligibility shall be subject to affected person's medical standard and suitable appointment found for them. The condition provided in the impugned policy while granting relaxation, it was not looked into by the authority concerned and not by the Tribunal and permanent low medical category persons are not entitled for extension of service. The policy decision, whether the applicant has completed with or not. Requirement is based on the authority concerned and not on the Court. Moreover, the relief claimed by the applicant is to quash the order and permit him to serve up to extended period is reproduced as under (Page 9).....

It has also been submitted by Ld. Counsel for the applicant that no show cause notice was issued by the competent authority while discharging. It is not disputed that the applicant was placed low medical category while due for extension. Rule 13 does not make it necessary to issue show cause notice under particular fact and circumstances.

It is well settled proposition of law that while proceeding with judicial review, direction cannot be issued which is impossible for authority to comply after a gap of three years and the claim becomes infructuous. For ascertaining instructions to look into the matter with regard to extension of service .

In view of the above, the original application is rejected. Extension of service is based on policy decision and it is not fundamental right to claim extension. Ofcourse, the decision should be taken in just and fare manner and policy should be implemented judiciously with regard to service in question. Since the period of 31.03.08 has already expired and the applicant is not interested to file statutory complaint, we are of the view that the Original Application lacks merit. Accordingly we are not intended to interfere in the impugned order. Original Application is rejected.

No order as to cost.

2. In view of the above, the Original Application has no merits and deserves to be **dismissed**.

3. Original Application is disposed of accordingly.

There is no order as to cost.

(Air Marshal Anil Chopra)
Member (A)

ukt/-

(Justice D.P Singh)
Member (J)