

**Court No. 1****ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW****ORIGINAL APPLICATION No. 572 of 2018**Tuesday, this the 13<sup>th</sup> day of September, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)  
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**IC-45737F Col. Abhiram Chandra Mishra, Staff Officer ‘Q’ Works  
Headquarters, Central Command, Lucknow.**..... Applicant**Ld. Counsel for the : **Shri K.K. Misra, Advocate.**  
Applicant

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi.
2. Chief of Army Staff, Army Headquarters, New Delhi.
3. Military Secretary, Army Headquarters, New Delhi-110011.
4. Maj. Gen Gulab Singh Rawat, GOC, HQ 19 Inf Division, C/o 56 APO.
5. Brig. RP Sharma, Commander, A Group, HQs, Western Command, Chandimandir.
6. Col. DKR Gautam, RED FOR Branch, HQ, Army Training Command, Shimla.

**.....Respondents**Ld. Counsel for the : **Ms. Appoli Srivastava,**  
Respondents. **Central Govt. Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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

- (i) *To quash AHQ MS Branch Signal No. 386730 /SIGS/MS-3A dated 06 Nov 2018 (Annexure A-7 to O.A) denying two years extension of re-employment in service.*
- (ii) *To call the records and quash the entries held, inappropriate to the required standard for grant of extension of re-employment to the applicant.*
- (iii) *To direct the respondents to grant extension of two years service in Re-employment to the applicant as per his entitlement.*
- (iv) *Any other relief which the Hon’ble Tribunal may consider appropriate may be granted in favour of the applicant.*
- (v) *Cost of the application be awarded to the applicant.*

2. Brief facts of the case are that the applicant was commissioned in the Army on 23.08.1986. He retired from service on attaining the age of superannuation on 31.12.2016. After retirement applicant was re-employed for initial two years from 08.01.2017 to 07.01.2019 and posted to 19 Inf Div Sig

Regt. The applicant was asked his willingness for extension of service for further two years. The applicant submitted his application for extension of service for further two years. He was informed by the respondents that he has not been granted extension of re-employment. Being aggrieved, applicant has filed this Original Application with the prayer to grant extension of two years service in re-employment.

3. Learned counsel for the applicant submitted that applicant was initially re-employed for two years from 08.01.2017 to 07.01.2019 and he joined duty at HQ 19 Inf Div located at Baramula in J&K. As per instructions of MS Branch, applications in respect of those officers who were desirous for further extension for two years re-employment in service must reach MS Branch, Army Headquarters four months before the expiry of the tenure of initial re-employment vide para 20 of policy letter dated 30.05.2000. In the case of applicant it was to reach MS Branch, Army HQ by 07.09.2018. The applicant submitted his application for seeking further extension of re-employment duly completed in all respect on 08.05.2018 to Col Q of the Div HQs. Applicant proceeded on 30 days part of Annual Leave commencing from 14.05.2018 to 13.06.2018. Col Q was his IO, Dy GOC was RO and GOC was SRO. After returning from leave applicant learnt

that his application for extension was not forwarded by Col Q. He prepared another application and submitted to new Col Q of Div Headquarters. Since applicant had not served with new Col Q for the required period for assessing and recommending his case of extension, he expressed his inability to do so. However, he forwarded his application to previous Col Q at his new place of posting at Shimla vide letter dated 25.06.2018. Col Q forwarded the application duly initiated to Dy GOC 19 Inf Div for necessary action. At the end of June 2018, Dy GOC had proceeded on posting to HQ Army Training Command, Shimla. Applicant was posted to HQ Central Command, Lucknow and he joined duty on 11.08.2018. Applicant telephonically contacted Staff Officer to GOC 19 Div to know where about of his application. He wrote letter dated 25.08.2018 to Staff Officer to GOC with copy to concerned authorities giving details of movement of application. He was informed vide MS Branch, Army HQ, Signal dated 06.11.2018 that he was not granted extension of re-employment for two years as his application was not received in MS Branch, Army HQ four months in advance as well as he was not meeting ACR grading and recommendation. Responsibility of forwarding application to MS branch lies with IO, RO and SRO. From the Signal of MS Branch dated 06.11.2018, applicant came to know that his application was received by MS Branch, Army

Headquarters delayed by 18 days. These authorities are solely responsible for late submission of application of the applicant.

4. Applicant had earned two ACRs during his tenure in this Division. As per MS Branch, Army Headquarters policy, if in over all grading less than 7 marks are awarded, the officer will not be granted extension. As per Para 25 of this letter if an officer is not recommended, then detailed reasons for doing so should be indicated by RO in the chain of command. The applicant was never conveyed anything on this issue. The applicant was never administered any warning in performance of his duty. Learned counsel for the applicant pleaded that MS Branch, Army Headquarters, Signal dated 06.11.2018 be quashed and two years extension of re-employment in service be granted to the applicant.

5. On the other hand, learned counsel for the respondents submitted that applicant on grant of re-employment of two years from 08.01.2017 to 07.01.2019 was posted to 19 Inf Div Sig Regt as Staff Officer, Q Works. On 02.08.2018, he was posted to HQ Central Command, Lucknow. During re-employment tenure, the officer was repeatedly warned verbally as well as in writing for his conduct as many complaints had been received against him.

The applicant was willing to extend his re-employment tenure for further two years. His application for extension of re-employment was submitted to MS Branch, Army Headquarters with the endorsement "Not Recommended" by IO, RO and SRO. Learned counsel for the respondents submitted that re-employment is solely for the interest of organisation i.e. to make the deficiencies in the officer cadre of the army and not a welfare measure for the retired officers. The applicant cannot claim grant of re-employment as a matter of right. The performance of the applicant was poor and he was not meeting criteria for extension of re-employment for two years. Learned counsel for the respondents pleaded that instant O.A. has no substance and is liable to be dismissed.

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

7. The question before us to decide is "whether the extension of two years re-employment to the applicant whose performance is not up to standard can be granted."?

8. On perusal of documents, it appears that if the application submitted by the applicant would have reached in MS Branch, Army Headquarters in time, then also applicant was not eligible for

grant of extension of two years re-employment as he was not meeting ACR criteria. Application of the applicant was not delayed intentionally, but it was delayed due to posting of IO and RO. Written complaint received against the officer, establish that behaviour of the applicant with his subordinates was not up to standard. Various complaints were received against him by his subordinates. Applicant was warned verbally as well as in writing vide letter dated 22.06.2018 by his immediate superior officer to improve but there was no improvement in his behaviour. Secondly, he was not recommended for extension of two years re-employment by IO, RO and SRO based on his performance and conduct and in the interest of organisation. The applicant was not meeting the provisions of Para 20 of MS Branch Policy Letter dated 25.01.2000 for extension of two years re-employment as he was awarded 5/5 and 'Not Recommended' by IO/RO in his ACR with effect from 08.01.2017 to 31.05.2017 and 6/6 and 'Not Recommended' by IO/RO in ACR with effect from 01.06.2017 to 31.05.2018. Further re-employment to officers in the army is given to retired officers to make the deficiencies in the officer cadre of the army and not as a welfare measure. As per MS Branch, Army Headquarters policy letter dated 25.01.2018, extension of re-employment can be granted only upon meeting of required criteria which are to be assessed upon the present ACRs and not

upon the previous ACRs. The applicant is not entitled the relief prayed in Original Application to quash MS Branch Signal dated 06.11.2018 and he has rightly been denied extension for two years re-employment.

9. We, therefore do not find any merit in the application to interfere with the impugned order passed by the respondent authority rejecting extension of two years re-employment to the applicant. Consequently, the application being devoid of merit is liable to be **dismissed**.

10. Accordingly, Original Application is **dismissed**.

11. No order as to cost.

12. Pending applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated : 13 September, 2022

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