

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

101.

OA 1842/2022 WITH MA 3646/2022

Brig Kaushal Sreedharan	Applicant
VERSUS		
MoD Through The Secretary MoD	Respondents
DHQ PO ND 110011 and Ors.		

For Applicant	:	Mr. S.S. Pandey, Advocate
For Respondents	:	Mr. Rajesh Kumar Das, Sr. CGSC

CORAM

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN P.M. HARIZ, MEMBER (A)**

ORDER
07.12.2022

MA 3646/2022

Counter affidavit has been filed. There being some delay, this MA has been filed seeking condonation of delay in filing the counter affidavit. Delay condoned. Counter affidavit is taken on record.

MA stands disposed of.

OA 1842/2022

3. This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007, by the applicant who is a serving Brig of the Army Aviation Corps. He is aggrieved on not being empaneled for promotion to the rank of Maj Gen by the

No.1 Selection Board conducted on 26th May, 2022, in which he was considered as a fresh case and the only eligible officer from his batch. The results of the SB was promulgated vide letter dated 17th June, 2022 (Annexure A-1). In the OA, the applicant has therefore prayed that the records pertaining to his non-empanelment be called for, examined, quashed and that he be reconsidered for promotion. The applicant has also prayed that records pertaining to the scheduling of the No 1 SB of the next batch, pending the disposal of his statutory complaint be also examined and quashed. In the interim, the applicant has prayed that the Respondents be directed not to hold the No 1 SB in Oct 2022 for Army Avn Corps for 1989 or any other earlier batch; alternatively, one vacancy of Maj Gen be reserved till this OA is decided.

4. Subsequently, the applicant filled MA 3647/2022 in which he sought that further processing and de-classification of the result of 1989 Batch be withheld till final disposal of this OA and the reasons for his non empanelment as recorded by the No.1 SB be intimated to him, so that he can then seek suitable redressal as applicable under the law.

5. The respondents filed their counter affidavit on 17th November, 2022. The interim prayer was heard

on 23rd November, 2022, in which the only question warranting consideration was as to whether the results of the Selection Board held in November, 2022 should be withheld? Having heard both sides and considered various facts pertaining to the case, this Court did not find any ground to grant interim relief as prayed for and it was directed that the matter be listed on 7th December, 2022.

6. Accordingly, the matter was heard today wherein the counsel for the applicant stated that although the counter affidavit has been filed by respondents but they have failed to indicate the reasons for the applicant's non-empanelment and in the absence of any reasons being disclosed he is unable to represent against any of the causes that might have been assigned for his non-empanelment. Accordingly, the counsel vehemently stated that the proceedings of the No.1 SB held on 26th May, 2022 be perused by the Court and the reasons for non-empanelment of the applicant as recorded in the No 1 SB proceedings be examined, and these be then intimated to the applicant so that he could then ventilate his grievances as per law.

7. The Respondents have produced the Board proceedings of No.1 SB held on 26th May, 2022 for our perusal. We have

examined the Board proceedings and it is seen that the applicant was considered as a single agenda. The Board having examined the applicant's overall profile and the necessity of high caliber officers to meet the emerging requirement of the organization, the Board concluded that that the applicant was not suitable to be recommended for empanelment to the rank of Maj Gen in the Army Avn Corps. Accordingly, the Board recommended that the applicant be not empanelled. The Board Proceedings were subsequently, approved by the Competent Authority and result promulgated vide Annexure A-1.

8. In view of the above facts, the applicant is at liberty to ventilate any other grievance as deemed appropriate before this Tribunal.

9. List the matter on **12th December, 2022.**

(RAJENDRA MENON)
CHAIRPERSON

(P.M. HARIZ)
MEMBER (A)

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