

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

31.

OA 2637/2021 WITH
MA 108 AND 385/2022

Maj Gen Anil Kumar	Applicant
VERSUS		
Union of India and Ors.	Respondents

For Applicant	:	Mr. I.S. Singh, Advocate
For Respondents	:	Mr. Neeraj, Sr. CGSC Col Sarika, MS Legal

CORAM

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

ORDER
10.08.2022

MA 385/2022

For the reasons stated in the application, delay in filing
reply to MA 108/2022 is condoned. Reply is taken on record.

MA stands disposed of.

MA 108/2022

2. The applicant, a 1987 batch RVC Officer, was considered by a SSB held on 22.02.2021 as a fresh case to assess his suitability for promotion to the rank of Lt. Gen in RVC and the SSB had recommended the officer for empanelment, if found fit. The recommendations of the SSB were submitted to the Cabinet Secretariat for the consideration and approval by

the ACC. However, the case was returned by the Cabinet Secretariat without confirmation. Accordingly, MoD intimated the status of the case to the MS Branch with instructions that the SSB be held afresh from the next available batch. The result of the SSB held on 22.02.2021 was promulgated on 15.11.2021 indicating that the applicant had not been empanelled.

3. The matter was first heard on 29.11.2021 and notice was issued. The question of interim relief was heard and keeping in view the facts and circumstances of the case and the policy, no interim relief was granted. However, Respondents were directed that any promotion or orders passed during the pendency of the matter shall be provisional and subject to final outcome of this OA. The matter was heard subsequently and in our Order dated 23.03.2022 we had observed that the record of the consideration indicating the reasons for non-confirmation by the Cabinet Secretariat and the consequent non-empanelment of the officer were not found. The Respondents were given time to produce the relevant records/ seek instructions and the matter was then heard on 25.05.2022. Since no records were produced on 25.05.2022, the Respondents were directed to submit the case to ACC for their consideration and endorsement. On 29.07.22 we were informed that in pursuance to the observations made and the

orders passed on 25.05.2022 the matter was pending consideration before the ACC and the decision of the ACC was awaited. The matter was therefore adjourned to 31.08.2022 to enable the ACC take a decision. On 03.08.2022 the Respondents made a mention that the decision of ACC had since been received and that the Respondents be permitted to submit the records. Accordingly, the records were produced on 10.08.2022 and perused.

4. On perusal of the records, it is seen that Dept of Military Affairs (DMA) referred the case back to the Cabinet Secretariat on 06.05.2022 for their reconsideration, and based on the directions of the Cabinet Secretariat the DMA submitted a self-contained proposal. Certain clarifications were sought by the Cabinet Secretariat, all of which were replied to by the DMA and the case was then referred to the ACC on 07.07.2022. The case was considered by the ACC and vide PMO's Office Note dated 28.07.2022 it was intimated that the proposal of the DMA for empanelment of Maj Gen Anil Kumar for promotion to the rank of Lt Gen was not approved. This was then intimated to the DMA by ACC vide their Note dated 28.07.2022. Since the recommendations of the SSB has now been considered by the competent authority, and has not approved the applicant for

empanelment, the Respondents can now proceed with further action on issue of any promotion or orders in the matter.

5. MA stands disposed of.

OA 2637/2021 WITH

6. Let counter affidavit be filed within six weeks. Rejoinder, if any, may be filed within two weeks thereafter.

7. List the matter on 14th October, 2022.

**(RAJENDRA MENON)
CHAIRPERSON**

**(P.M. HARIZ)
MEMBER (A)**

/vks/Neha