

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

150.

OA 1559/2023 WITH MA 5369/2023

Maj Gen Vinayak Saini Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC

CORAM

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

ORDER
11.01.2024

The matter is taken up today and we find that in Para 8,
the applicant has prayed for the following relief:

“(a) Direct the Respondents to dispose of the Applicant’s Statutory Complaint dated 27.02.2023, preferred under Section 27 of the Army Act-1950, at the earliest and till then the result of the Corps Specific SSB held in Feb 2023 should not be de-classified. In case the Applicant gets a redressal in his said Statutory Complaint, then he should be considered afresh along with his batch of Engineer Officers with his updated record of service;

Or Alternatively

Call for the complete record of the Applicant’s record of service, including his CR dossier as well as proceedings of the Special Selection Board (SSB) held in Feb 2023 vide Army HQ MS Branch letter dated 12.12.2022 in r/o 1987-batch of Corps of Engineers, and after perusal thereof, set-aside complete assessment of IO (Respondent No.4) endorsed in the Applicant’s impugned Early Confidential Report (ECR) for the period 15.07.2021 to 07.05.2022 and the proceedings of said Special Selection Board (SSB) so far as same relate to the Applicant herein;

(b) Direct the Respondents that in case the Applicant gets a redressal in his said Statutory Complaint, or in the instant OA, then he should be given a Special Review Consideration by the Special Selection Board (SSB), with his updated record of service, on the same parameters as was applied to the original consideration given to his batch by the SSB held in Feb 2023;

- (c) *Direct the Respondents that while so considering his case afresh for promotion to the rank of Lt General by the SSB, the same cut-off CR as applied to Non-General Cadre Staff (NGCS) Stream and Army Ordnance Corps (Corps Specific Stream) be applied to the Applicant keeping in view the principle of equal opportunity enshrined under Article 14 r/w Article 16 of Constitution of India;*
- (d) *Direct the Respondents not to declare/declassify the result of SSB held in Feb 2023 in r/o the Engineer officers against Corps Specific Vacancy, pending disposal of his Statutory Complaint dated 27.02.2023 or pending disposal of the instant OA, whichever is earlier, and the consequential action to be taken following such disposal;*

Or Alternatively

- Direct the Respondents to set-apart one vacancy of Lt General, out of the two Corps Specific vacancy in the Corps of Engineers against which the SSB was held in Feb 2023 in r/o 1987 batch of Corps of Engineers, pending disposal of his Statutory Complaint dated 27.02.2023 or pending disposal of the instant OA, whichever is earlier, and the consequential action to be taken following such disposal; and*
- (e) *Issue any other order(s) and direction(s) as deemed appropriate by this Hon'ble Tribunal under the facts and circumstances of this case."*

2. As far as, prayer 8(a) is concerned, learned counsel for the applicant has produced before us an order passed by the Competent Authority, i.e., Government of India, Ministry of Defence, Department of Military Affairs on 09.10.2023 and communicated to the applicant on 27.10.2023 and in Para 4 of the aforesaid order, the Central Government has granted partial redressal to the applicant by way of expunging the IO's assessment at Para 12 – 'Box Grading' in CR 07/21 – 05/22 (impugned) on the ground of inconsistency.

3. In the light of the aforesaid parital relief granted to the applicant, now, respondents have to consider the case of the applicant on the basis of the modified profile for a review case before the appropriate Selection Board and take further action.
4. We direct the respondents to take consequential action in the matter and submit a report to this Tribunal within a period of eight weeks.
5. List the matter again on **13.03.2024**.
6. A copy of this order be provided *'DASTI'* to learned counsel for the parties.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[LT. GEN. P.M. HARIZ]
MEMBER (A)**

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