

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

55.

OA 486/2023 with MA 2400/2024 & 3626/2023

Maj Dashrath Singh Chauhan Applicant
VERSUS

Union of India and Ors. Respondents

For Applicant : Applicant-in-Person
For Respondents : Mr. Rudra Paliwal, proxy for
Mr. Neeraj, Sr CGSC,
None for R-3

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
23.08.2024

The applicant vide the present OA makes the following prayer:-

“8. The applicant CR earned for the period Nov 2019- Apr 2020, May 2020- Oct 2020 and Nov 2020- Oct 2021 should be expunged.”

2. The prayer seeking grant of interim relief vide clause 9 of the OA was made to the effect:-

“9. Applicant request that Permanent Commission be granted to enable him to appear in the upcoming exams scheduled for staff papers.”

3. Vide order dated 10.11.2023 it was expressly observed to the effect:-

“Counter affidavit has been filed on behalf of the official respondent No 1-2. Notice sent to respondent no. 3 has been served but he has not filed the counter affidavit.”

2. Keeping in view the aforesaid, the OA is directed to be listed for final hearing on 16th April, 2024. If advised, respondent No. 3 may file counter affidavit well before the next date of hearing

2. Original records be kept present at the time of hearing for perusal of the Tribunal. As far as grant of interim relief is concerned, no relief can be granted at this stage. However, if ultimately the application is allowed, all benefits found due to the applicant will be granted by way of a detailed order.”,-

with it thus having been observed to the effect that no interim relief could be granted at this stage but if ultimately the application was allowed, all benefits from due to the applicant would be granted by the detailed order.

4. The applicant is inter alia aggrieved by the stated non grant of Permanent Commission in as much as he submits that the Result No 5 of the Selection Board of 22-24 June 2022 shown at serial no 135 of the same indicated to the effect that he, the applicant was approved for extension of 4 years up to 14.09.2026 (AN).

5. The applicant in reply to a specific Court query submits that he did not file any statutory complaint against this Result No. 5 Selection Board 22~24 June 2022.

6. In view thereof in terms of Section 21(1) of the AFT Act, 2007 which stipulates to the effect:-

*“Application not to be admitted unless other remedies exhausted
(1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 (45 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950), as the case may be, and respective rules and regulations made thereunder,”*

and as Section 27 of the Army Act, 1950 provides to the effect:-

“Remedy of aggrieved officers.- Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself, may complain to the Central Government in such manner as may from time to time be specified by the proper authority”,

it is considered appropriate in the interest of justice that the present OA 486/2023 that has been filed by the applicant with the prayer clause 8 specifically requesting for the grant of Permanent Commission with all prayers made therein in relation to the expunction of the CRs earned for the period November 2019, April 2020, May 2020, October 2020 and November 2020, October 2021, be treated as a statutory complaint in terms of Section 27 of the Army Act 1950 by the respondents.

7. The respondents are directed to dispose of this statutory complaint within a period of three months from today. The applicant would be entitled to seek redressal, if any, if required, if he is aggrieved even thereafter.

8. The OA is thus disposed off.

9. Copy of this order be given *DASTI* as prayed.

**(JUSTICE ANU MALHOTRA)
MEMBER (J)**

**(REAR ADMIRAL DHIREN VIG)
MEMBER (A)**