

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

8.

OA 4020/2024

Col Sudhir Kumar Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Indra Sen Singh, Advocate &
Mr. Nasir Mohammad, Advocate
For Respondents : Ms. Sunanda Shukla, proxy for
Mr. Jagdish Chandra. Advocate
Mr. Abhishek Kumar, OIC Legal

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C P MOHANTY, MEMBER (A)

ORDER
07.10.2024

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

- (a) Call for the entire official record of respondent no. 1 and respondent no. 2, leading to the rejection of the applicant's statutory complaint dated 30.04.2024 vide the impugned order dated 22.05.2024 and order dated 28.05.2024 (Annexure A-1(Colly), pg 42) and, after perusal thereof, set aside said impugned orders;*
- (b) Call for the entire official record of respondent no.1 and respondent no.2, leading to the rejection of the applicant's statutory complaint dated 16.04.2020 vide the impugned order dated 25.11.2021(Annexure A-2, pg 44) and, after perusal thereof, set aside said impugned order;*
- (c) Call for the entire service record/dossier of the applicant, and after perusal thereof, set aside complete CR of the applicant pertaining to period 15.09.2014 to 18.01.2015 and complete CR pertaining to period 19.01.2015 to 31.08.2015, the same being technically-invalid, Subjective/non-objective, inconsistent, and biased/prejudiced;*

- (d) Call for the entire service record/dossier of the applicant, and after perusal thereof, set-aside any uncommunicated weak/adverse remark or any negative recommendation, and any other CR of the applicant found to be subjective or inconsistent with his overall profile;*
- (e) Direct the respondents to re-consider the case of the applicant for nomination to Higher Command/Higher Defence Management Course(HCC/HDMC) on the basis of his modified/updated record of service after setting-aside the impugned CRs, as prayed for above;*
- (f) Direct the respondents to nominate the applicant to Higher Command/Higher Defence Management Course (HCC/HDMC) if his modified/updated record of service after setting-aside the impugned CRs matches with the officer of the applicant's batch placed last in the order of merit in the select list of HCC/HDMC Course consideration held in Feb 2024; and*
- (g) 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. A bare perusal of the record indicates that the impugned order 22.05.2024 no. 36501/18733/Inf/2020/MS-19 states to the effect:-

“2. The Statutory Complaint dated 30 Apr 2024 against CRs in r/o IC-67611F Col Sudhir Kumar, Inf has been examined. It is observed that the ibid complaint is against three CRs viz 09/14-01/15, 01/15-08/15 and 09/15-12/15. The Previous stat complaint was also against two of the same CRs i.e 09/14-01/15 & 01/15-08/15. Therefore, the present stat complaint may be declared ‘Untenable’ by the competent authority with reference to the two CRs already covered in previous stat complaint (being repetitive in nature). In view of this, the compliant is returned herewith. The complainant be advised to submit a fresh stat complaint only against the CR 09/15-12/15.

3. The list of dates placed on record by the applicant at page - 10 of the OA reflects to the effect:-

“As directed by the Army HQ vide their letter dated 22.05.2024 (Annexure A-1/Colly), Applicant has preferred another Statutory

Complaint dated 22 July 2024 thereby challenging his CR pertaining to the period Sep 2015 to Dec 2015 (CR-15), which is still pending consideration and has not been disposed of yet. Applicant reserves his right to take recourse to further necessary legal remedy in respect of CR for the period Sep 2015 to Dec 2015 (CR-15) in case he does not succeed on his Statutory Complaint dated 22 July 2024.”

Apparently thus the statutory complaint made by the applicant against the CR 09/15-12/15 as stated by the applicant has not yet been disposed of. However, a period of six months from the date 22.07.2024 has not yet elapsed.

4. In view thereof, the respondents are directed to dispose of the statutory complaint of the applicant dated 22.07.2024 by the date 21.01.2025 without default. In the event of the applicant being aggrieved thereafter or non disposal of the said statutory complaint by the date 21.01.2025, it would be open to the applicant to seek redressal in accordance with law.

5. The OA stands disposed of.

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

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

**(LT GEN C P MOHANTY)
MEMBER (A)**