

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

60.

OA 433/2016 WITH MA 769/2021

Lt Cdr Ravinder Pal Singh

... Applicant

Versus

Union of India & Ors.

... Respondents

WITH

OA 435/2016 WITH MA 767/2021 WITH MA 1149/2023, OA 436/2016, OA 1203/2017 WITH MA 910/2023 WITH MA 3219/2023, OA 838/2018, OA 1959/2018, OA 2118/2018, OA 816/2019 WITH MA 2369/2021 WITH MA 1484/2023, OA 1361/2021 WITH MA 2302/2021, OA 1454/2021 WITH MA 2257/2021, OA 1964/2021 WITH MA 2260/2021 WITH MA 899/2023, OA 2008/2021 WITH MA 1385/2023 WITH MA 2433/2023, OA 2064/2021 WITH MA 2368/2021, OA 2065/2021 WITH MA 2262/2021 WITH MA 911/2023, OA 2066/2021 WITH MA 2373/2021, OA 2067/2021 WITH MA 1076/2023, OA 2068/2021 WITH MA 1075/2023, OA 2069/2021 WITH MA 2138/2021, OA 2167/2021 WITH MA 1528/2023 AND MA 3400/2023 (OA 106/2017 RB MUMBAI), OA 2168/2021 (OA 104/2017 RB MUMBAI), OA 2169/2021 (OA 105/2017 RB MUMBAI), OA 432/2016, OA 437/2016, OA 780/2016, OA 1972/2021 WITH MA 2174/2021 WITH MA 2362/2021 WITH MA 2372/2021, OA 2019/2021, OA 1973/2021, OA 1965/2021 WITH MA 343/2022 WITH MA 343/2022 WITH MA 1379/2023, OA 2129/2021, OA 2215/2021, OA 2144/2021 WITH MA 991/2023, OA 2143/2021 WITH MA 1082/2023, OA 2155/2021 WITH MA 988/2023, OA 2146/2021 WITH MA 905/2023, OA 2153/2021 WITH MA 906/2023, OA 2142/2021, OA 2154/2021 WITH MA 1144/2023 AND OA 2147/2021 WITH MA 989/2023

For Applicant

: Ms. Pooja Dhar, Advocate
Shri S.S. Pandey, Advocate
Shri I.S. Singh, Advocate
Shri Manoj Kumar Gupta, Advocate

For Respondents :

Gp Capt Karan Singh Bhati, Sr. CGSC
Shri Anil Gautam, Sr. CGSC
Dr. V.S. Mahndiyan, Advocate

CORAM :

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

**O R D E R
29.08.2023**

MA 1528/2023 in OA 2167/2021

While hearing the matters today, a reference was made by learned counsel for the applicant to the objections raised in MA 1528/2023 in OA 20167/2021. After the additional affidavits were filed by the respondents in pursuance to the orders passed by this Tribunal on remand vide order dated 07.12.2022, in Para 3 we have observed as under:

***“3. Keeping in view the aforesaid, we are of the considered view that the respondents should file an additional affidavit indicating the following factors:
(a) Number of vacancies that were available for consideration and how the same were calculated and utilized;
(b) The criteria laid down for consideration of each case for grant of Permanent Commission and the consideration made by the Selection Board and the reasons as to why each individual applicant was not recommended for selection by the Selection Board.”***

In pursuance to the same, additional affidavit has been filed by the respondents in each case and pointing that the additional affidavit do not disclose the required information MA 1528/2023 was filed in OA 2167/2021, **Cdr Amit Kumar Sharma** Vs. **Union of India and Ors.**, and identical MAs were also filed in most of the cases.

2. In the MAs, in Para 8, the applicants have given a chart indicating from clause (a) to (t) of the said clause the requirement of the documents need to be furnished by the respondents and justification given by them and it is stated that in the MA, from 8(a) to 8(t) the applicants have indicated the documents required by them and justification for seeking the documents. In the counter affidavit filed by the respondents, they have tried to justify their action and have in rebuttal given a tabulated chart from Para 10 onwards reverting the contentions of the applicants.

3. Having heard learned counsel for the parties on the issue in question, we find that in the order passed by us on 07.12.2022, we had clearly indicated that based on the observation made by the Hon'ble Supreme Court in the remand order that the respondents should indicate as to what were the number of vacancies that were available for consideration in each category and how the same was calculated. The respondents should specifically indicate the number of vacancies which were available for consideration and which were taking note of by the Selection Board for considering the case of the applicant and the others and the foundations and the basic documents based on which the

calculation of the vacancies was done. Even though the respondents in the affidavit have given general principle of calculation of vacancies but it is not clear as to based on which circular, letter, policy or instruction, the calculation of the vacancies and the formula indicated therein has been done. The respondents should clarify the said positions that apart the criteria laid down by the Selection Board for evaluating the cases for consideration and the consideration made in each case of the applicants should also be clarified in the affidavit. While clarifying the manner in which the consideration of the case of the applicants were made, it should be indicated as to CRs of which year were taken note of, what was the grading given to the applicants and in comparison to other considered candidates, what was the position of the applicant in the merit based on the CRs grading of the applicant or any other criteria that was followed or taken note of by the Selection Committee for selecting a particular candidate or rejecting a particular candidate. These factors should be indicated with reference to each of the applicants separately in a counter affidavit either filed it individually in each case or selectively in one case and supply a copy to each of the applicant. The said

counter affidavit be filed by 20.09.2023 with a copy to each of the applicants.

OA 2129/2021

4. Learned counsel for the applicant prays for permission to file an additional document which is obtained through RTI. He is permitted to do so within a period of two weeks with a copy to the respondents.

OA 1972/2021 with MA 2174/2021 with MA 2362/2021 with MA 2372/2021

5. The issue is being taken for consideration based on the remand order passed by the Hon'ble Supreme Court in the judgment rendered on 22.10.2022 in Civil Appeal No.841/2022, **Cdr Amit Kumar Sharma etc** Vs. **Union of Indian and Ors.** However, today during the course of the hearing, Shri S.S. Pandey, learned counsel for the applicant invited our attention to the review petition filed by the petitioner, namely, Cdr Seema Chaudhary, Civil Diary No.41709/2022 in Civil Appeal No.2216/2022, wherein, on 18.07.2023 Hon'ble Supreme Court has condoned the delay in filing the review petition and issued a notice.

6. As the review petition is pending before the Hon'ble Supreme Court, this matter be delinked from rest of the

matters and be listed after the verdict of the Hon'ble Supreme Court in the review petition.

7. List again on **27.09.2023** at **2.15 P.M.**

8. A copy of this order be provided '**DASTI**' to learned counsel for the parties.

[RAJENDRA MENON]
CHAIRPERSON

[P. M. HARIZ]
MEMBER (A)

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