

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

11.

OA 2190/2022

In the matter of :

Hav Dheeraj Sharma

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Manoj Kr. Gupta, Advocate

For Respondents : Shri Ranbir S. Chhillar, Advocate

CORAM :

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

O R D E R
30.09.2022

Issue Notice to the respondents. Notice is accepted by Shri Ranbir S. Chhillar, learned counsel for the respondents.

2. Heard on the question of interim relief. Even though learned counsel for the applicant vehemently argued for grant of interim relief on the ground that the applicant is being deprived of promotion to the next higher rank and is being discharged on 30.09.2022 despite having vacancy of two Naib Subedar in his Unit since 01.07.2022 and the applicant, having participated in the Cadre, is awaiting of the Cadre since June, 2022.

3. It is the case of the applicant that the Unit, having failed to conduct the Cadre in advance and once having conducted the Cadre, result-sheets have not been forwarded to the Record Office for necessary documentation in time. As a result, even though the applicant was senior and eligible for promotion in the vacancy that fell vacant since 01.07.2022, he is now being denied promotion because of his discharge on 30.09.2022.

4. On the aforesaid grounds, it is prayed that as an interim measure, the discharge of the applicant should be withheld till publication of the result of the Cadre Course which was conducted in April – June, 2022.

5. The respondents have filed a short reply and from the reply, it is seen that the applicant's Unit has conducted the promotion cadre from 04.04.2022 to 12.06.2022. All mandatory tests of the Cadre were conducted with effect from 08.06.2022 to 15.06.2022. Details of the Board Members and other particulars have been given. The result was declassified on 24.09.2022 and the applicant was declared 'Fail' as he failed in the Chin-up test of PPT.

6. Taking note of the detailed averments made in the short reply filed by the respondents, wherein the applicant has been found to have not qualified in the Cadre, we see no reason to grant any interim relief and, therefore, the prayer for interim relief stands rejected.

7. The respondents may file their detailed counter affidavit within eight weeks. Rejoinder, if any, be filed within two weeks thereafter.

8. List the matter on **21st December, 2022.**

Copy of this order be given '***Dasti***'.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

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