

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

90.

OA 2190/2022

Hav Dheeraj Sharma	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. Manoj Kr Gupta, Advocate
For Respondents	:	Mr. R S Chillar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
14.01.2025

Havind heard learned counsel for the parties, we find that it is the case of the applicant that in the matter of grant of promotion to the rank of Naib Subedar, he has not been promoted even though he secured the highest marks in the written examination but he could do only four Chin-Ups in Physical Efficiency Test which disentitles him for promotion. Claiming parity with two persons, namely, Hav Rajindra Singh Yadav and Hav Jitender Singh in whose cases in the age group of 30-40 years even though they also fell in the same category of poor Chin-ups, one has been granted promotion and the other was declared as pass in Chin-up test.

2. Learned counsel for the applicant invites our attention to the result sheet for promotion to the post in question. Annexure A-2 collectively at page 14 and 18 respectively refers to the

candidature of Hav. Rajindra Singh Yadav whose name appears at Sl. No.7 and points out that he was also shown as poor in the Chin-ups and similarly one Hav. Jitender Singh also shown as poor in the Chinups. It is further the case of the applicant that in the test for Physical Proficiency Test in the age group of 30-40 years for Chin-ups, persons who do 3-4 chinups are treated as poor. It is the case of the applicant that in case his result in the Physical Proficiency Test for Chin-ups was poor, same is the position with Hav Rajindra Singh Yadav and Hav Jitender Singh but it is stated that Hav. Rajindra Singh Yadav was granted promotion and Hav. Jitender Singh was declared pass.

3. It is the case of the applicant that the policy is applicable in all cases and if the Chinups between 3-4 is poor category, it is the case of the applicant that in case of Rajindra Singh Yadav inspite of poor performance in the Physical Proficiency Test he was granted promotion and Hav. Jitender Singh was shown as pass in the Physical Proficiency Test. It is not understood as to why the same benefit has not been extended to the applicant.

4. Even though specific averments have been made by the applicant in this regard in para 4.1 to 4.4 of the pleadings, the respondents in reply do not say anything in specific. They have to specifically point out as to whether Hav. Jitender Singh and Rajindra Singh Yadav were granted promotion in the circumstances expalined by the applicant in the pleadings, if so

under what circumstances and if not granted the details should be furnished. A specific reply to the submissions made by the applicant in para 4.1 to 4.4 should be filed in the form of an additional short affidavit specific to the two persons namely, Hav. Rajindra Singh Yadav and Hav Jitender Singh and the documents referred to namely Annexure-2(Colly) and the policy in this regard as contained in Annexure A-3 at page 20.

5. That apart, if there was any change in the policy at the time when the applicant was subjected to the Physical Proficiency Test from the one that was applicable when the other two personnel, namely, Hav. Rajindra Singh Yadav and Hav Jitender Singh were subjected to the Physical Efficiency test, the same should also be clarified.

6. List the matter as **Part Heard** on 21.02.2025.

7. Let a copy of this order be given **dasti** to learned counsel for both the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

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