

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

89.

OA 81/2024 WITH MA 2349/2024

Sqn Ldr Bhim Bala Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ravi Kumar, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

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

O R D E R
31.05.2024

MA 2349/2024

Counter affidavit has been filed. There being some delay in filing the counter affidavit, this application has been filed seeking condonation of delay. Delay condoned. Counter affidavit is taken on record.

2. MA stands disposed of.

OA 81/2024

3. The case has been listed today in the category of 'Pleadings not complete'. Even though counter affidavit has been filed by the respondents and the same is taken on record.

4. At this moment learned counsel for the applicant presses for Interim Relief on the ground that in view

of the letter No.34528/AMC(DPC)/2024/DGAFMS/DG-1A issued dated 22.05.2024, the last date of submissions of the applications to Commanding Officer for appearing in Departmental Permanent Commission (DPC) is 15.06.2024, and that if she is not allowed to appear in this DPC Examination, she will lose out for the same, as the next DPC Examination might schedule only in the year 2025.

5. We have heard learned counsels for both the parties on the issue of Interim Prayer.

6. On a perusal of records, we find that applicant was granted commission on 31.05.2021, and that the offer letter dated for the same was issued on 01.05.2021. However, we find that the terms and conditions as enshrined in AI 74/76 with respect to age limit for consideration for DPC were amended vide policy letter of Govt of India, Ministry of Defence letter No 3569/DGAFMS/DG-1B(i)/389/21/D(Med) dated 19.04.2021 and the age limit has been scrapped vide Para b(ii) 12(b) reproduced as under :

“(b) In addition all officer so commissioned with the amended age criteria will be given three chances for taking up the departmental examination after completion of two years of SSC service and before completion of 9½ yrs service irrespective of the age criteria when applying for Departmental Permanent Commission examination provided they fulfil the other eligibility criteria laid down in AI 74/76 as amended subject to the

condition that not more than two chances shall be given in the 1st five years of SSC service.”

7. Noting the fact that the applicant was commissioned post amended policy, and the same ought to have been applicable in the case, not only balance of convenience lies in favour of the applicant but also *prima facie* case is established in favour of the applicant in the light of the contents of the letter No.34528/AMC(DPC)/2024/DGSFMS/DG-1A dated 22nd May, 2024; relevant extract at Para 3(b) is reproduced as under:-

The eligibility criteria for grant of DPC has been laid down vide Paras 1to 5 Annexure to Ai 74/76, as amended from null & void & liable for rejection.

(b) Age Limit-

(i) Those officers who have applied for and were granted SSC under the amended age criteria as promulgated vide GoI MoD letter No. 3569/DGAFMS/DG-1B(i)/389/21/D (Med) dated 19 April, 2021 do not have any age limit to apply for DPC.

(ii) For the officers who have applied for and were granted SSC as per age criteria prevalent prior to issue of GoI MoD letter No. 3569/DGAFMS/DG-1B(i)/389/21/D (Med) dated 19 April, 2021, the age limits will be as under:

(aa) Officers in possession of MBBS degree only must not have attained 30 years as 31 Dec 2024 (Date of Birth: 02 Jan 1995 or later).

(ab) Officers in possession of post-graduate diploma like DOMS, DPH, DA etc prior to commissioning must not have attained 31 years as on 31 December, 2024 (Date of Birth : 02 Jan 1994 or later).

(ac) Officers in possession of post-graduate qualifications like MD, MS etc prior to commissioning must not have attained 35 years as on 31 Dec 2024 (Date of Birth: 02 Jan 1990 or later).

(Auth: GoI MoD letter No. 34528/DPC/DGAFMS/DG-1A/2493/D(Med) dated 21 Sep 2001).

8. That apart, it would be an irreparable loss to be suffered by the applicant and, therefore, without going into the merits of the case, we provisionally allow the applicant to participate in the DPC selection process which has already commenced. However, the result with respect to the applicant shall be kept in the sealed cover, and the same shall be subject to the outcome of this OA.

9. List the matter for final hearing as per seriatim.

10. Let a copy of this order be provided *'DASTI'* to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)