

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

85.

OA 1203/2022 with MA 2010/2024

Ex Sub Gaikwad Sarjerao Namdeo		Applicant
Versus		
Union of India & Ors.		Respondents

For Applicant	:	Mr. Ajit Kakkar, Advocate with Ms. Eti, Advocate
For Respondents	:	Mr. V Pattabhi Ram, Advocate

CORAM

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

O R D E R
08.08.2024

MA 2010/2024

Permission to file counter affidvt is allowed and same is disposed off.

OA 1203/2022

This original application has been filed seeking the following reliefs:-

“(a) To direct the Respondents to bring all relevant documents on record with advance copies to the Applicant.

“(b) To direct the Respondents to bring on record relevant documents including the Battle Casualty certificate, Severity Certificate in respect etc. in respect of the Applicant.

“(c) To set aside the Letter No.1653/BC/7M/Stats dated 09.03.2022.

“(d) To direct the Respondents to grant Battle Casualty and broad banding of Battle Casualty to the Applicant w.e.f. 01.07.2021.

(e) To direct the Respondents to issue a corrigendum PPO pertaining to Battle Casualty and broad banding of the Battle Casualty of the Applicant.

(f) To direct the Respondents to pay arrears of Battle Casualty and broad banded Battle Casualty along with interest @ 12% from the date of discharge i.e. 01.07.2021.

(g) To grant such other relief appropriate to the facts and circumstances of the case as deemed fit and proper.”

The applicant wanted the status of Battle Casualty and all consequential monetary benefits accruing thereto on the basis of the status of the battle casualty. In the meanwhile, the matter is pending for consideration.

During the course of hearing of the matter on 29.09.2023, applicant has filed an application for closing the right of the respondents to file the counter affidavit and one of the grounds based on the said dates was as the applicant's son is to appear for a counseling after having qualified in the NEET examination for admission for an appropriate course in case the applicant is granted the status of a Battle Casualty, his son will get some preference in the matter of admission to the course in question and on 25.07.2024 and 01.08.2024, the following orders were passed.

Order dated 25.07.2024.

“We direct the office to list the matter on 01.08.2024 as PART HEARD for further hearing, on which date the respondents shall produce Appendix 'A' of AO 5/2020MP and the entire file as processed by the Army HQ, whereby the recommendation made

for treating the applicant as battle casualty as mentioned in Annexure A4 at page 41 of OA, was rejected by the Army HQ.

2. Let a copy of this order be provided 'DASIT' to learned counsel for the parties."

Order dated 01.08.2024.

"Learned officer Capt Akansha Singhal represented the respondents informs us that She is in possession of Appendix 'A' to Army Order 05/2020/MP and the file as processed by the Army Headquarters recommending for treated the case of the applicant as a battle causality are also available with them. She may retain the documents. We direct for listing of the matter in the same category on 8th August, 2024.

A copy of the Army Order 05/2020/MP along with Appendix 'A' be served on to Shri Ajit Kakkar, learned counsel for the applicant during the course of the day."

We wanted to examine the files as were processed by the Army Headquarter wherein the recommendation made for treating the applicant as Battle Casualty as per Annexure A 4 indicated in the page 41 of the OA was rejected by the Army Headquarter. Today the file has not been produced and even on 01.08.2024 when the matter was taken up, the file was produced but it could not be perused by us. Today when the matter is taken up, the files pertaining to the recommendations to treat the applicant as Battle Casualty and its rejection by the Army

Headquarter is not present. Normally we would have adjourned the matter to examine the file for the limited purpose of considering the prayer for treating the applicant's son for grant of benefits for the purpose of admission treating his father as Battle Casualty. However, we are informed by learned counsel for the applicant that after qualification of the NEET examination, the applicant has to appear for counseling which is to be held on 14/16.08.2024 and if the applicant loses the chance, his right for admission to the course under the said category would be adversely affected.

Keeping in view the aforesaid, we direct that on the applicant's son appearing for the time of counseling along with a copy of this order, the authorities undertaking the counseling shall consider the case of the applicant for the purpose of admission both as a Battle Casualty or an ordinary candidate and evaluate his merit according to such consideration for the General & Special (Battle Casualty)/War injury category as the case may be and in case admission is granted to the applicant in the category of Battle/war Casualty the same shall be provisional subject to final decision of this petition and the applicant will have no right to continue with the admission so granted once after final hearing we do not find it appropriate to grant the status of Battle Casualty to the applicant.

Taking note of the aforesaid the NEET authorities may proceed with the counseling of the applicant.

List the matter for consideration on **29.08.2024** on which date the respondents should keep the files present for our perusal as indicated in the orders passed on 25.07.2024 and 01.08.2024.

‘DASTI’.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]
MEMBER (A)**

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