

**COURT NO. 3, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

T.A. NO. 542 OF 2009

(WP(C) No. 6774 OF 1999 of Delhi High Court)

IN THE MATTER OF :

Ex-WO K. Anandan

.....Applicant

Versus

The Union of India and others

.....Respondents

CORAM :

**HON'BLE JUSTICE MANAK MOHTA, JUDICIAL MEMBER,
HON'BLE LT GEN Z.U.SHAH, ADMINISTRATIVE MEMBER**

PRESENT :

Mr. A.K. Trivedi, Counsel for the Applicant.

Ms. Barkha Babbar, Counsel for the Respondents.

JUDGMENT

Dated : 10-12-2009

1. The Applicant initially had filed Writ Petition (Civil) bearing no. 6774/1999 before the Hon'ble Delhi High Court challenging the impugned order dated 17-07-1997 by which his name had not been empanelled in the list for promotion to the rank of MWO (Master Warrant Officer). A writ of certiorari and mandamus was requested to

direct the addition of the name of the Applicant in the empanelled list dated 23-07-1997 for the rank of MWO. Reply to this petition was filed by the Respondents denying all the allegations with the further averments that Applicant was not qualified to be considered. Thus he was not entitled for promotion to the rank of MWO.

2. During the course of the pendency of the writ petition, in view of the constitution of the Armed Forces Tribunal in terms of the Section 34 of the Armed Forces Act 2007 (hereinafter referred to as "the AFT Act"), the case was transferred to this Tribunal along with record. Appearing parties were heard and record was seen.

3. For a just decision of this application, the relevant brief facts, available on record, are that the Applicant was enrolled in the Indian Air Force (IAF) on 28-02-1989 as AC/UT. It was stated that the Applicant was having unblemished record of services. He was a sportsman of International standing in the Indian Air Force HQs WAC (U) Subroto Park, New Delhi. It was further stated that the Applicant had represented the Indian Air Force several times in national championship and he had won number of awards and on account of this, Applicant was granted first out of turn promotion to the rank of JWO (Junior Warrant Officer) w.e.f 10-07-1991. Further as the

Applicant was the best service sportsman in the Indian Air Force, he got the second out of turn promotion to the rank of Warrant Officer w.e.f 22-12-1992 under the Army Policy dated 31-01-1995 (**Annexure P-2**). As per the claim of the Applicant, he was entitled for the further promotion to the rank of MWO as juniors to him in the list of Warrant Officer were empanelled in the list of MWO and promoted w.e.f. 01-02-1998 but he was not promoted. Meanwhile, he had been discharged w.e.f 28-02-1999. A prayer was made on same line.

4. In the reply filed by the Respondents, it is stated that on sports ground as per policy dated 31-01-1995, the Applicant was promoted twice i.e. first to the rank of Junior Warrant Officer w.e.f 01-07-1991 and second to the rank of Warrant Officer w.e.f. 24-12-1992. But he was not entitled for further promotion on the sports ground. It is further submitted that in promotion year 1997-98 the Applicant was not qualified for promotion to Master Warrant Officer as he had not completed 26 years of service as per pre mandatory requirement of policy, his name was kept aside. A prayer was made to dismiss the present application.

5. Arguments were heard. During the course of arguments, learned counsel for the Applicant reiterated the grounds stated in the application and submitted that Applicant's total case is based on the admitted policy dated 31-01-1995 (**Annexure P-2**). It was further submitted that as the Applicant was a sportsman, therefore, in his case for promotion length of service was not a bar. It was further submitted that vide order dated 23-07-1997, juniors to the Applicant have been empanelled for promotion to the rank of MWO but name of the Applicant had not been empanelled merely on the ground that he had not completed required strength of service for promotion to the rank of MWO. A request was made to quash the impugned order and directions be given for issuance of promotion order of the Applicant to the rank of MWO. On the contrary, learned counsel for the Respondents stated that on the sports ground, Applicant has already been promoted twice and as per policy he was not entitled for the third promotion. She further stated that requisite length of 26 years service for promotion was must to the rank of MWO as given in the policy and Applicant was not completing the requisite strength of service. Therefore, Applicant was not entitled for promotion. Learned counsel for the Respondents further drew our attention towards the relevant clause of the policy.

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6. We have thoroughly considered rival contentions placed by the learned Counsels for the parties and have gone through the impugned order as well as record of the case.

7. As per policy dated 31-01-1995 (**Annexure P-2**), there is no provision for the third promotion under the sports quota. Relevant provision is quoted as under :

“(j) Out of Turn Promotion to Outstanding Sportsmen Air Force Sportsmen who have distinguished themselves in various sports events whether individually or as members of a team will be considered for grant of promotions as mentioned below :-

(i) Grant of Out of Turn promotion Air Force Sportsmen who represent Services and participate in recognised National Championships either individually or as a member of the team will be granted out of turn acting paid promotion to the next rank with effect from the date of qualifying in such events, irrespective of their lengths of service or any service qualifications.

(ii) A second out of turn acting paid promotion will be granted to the following categories of sportsmen who have been granted first out of turn promotion without passing the requisite promotion examination :-

(aa) Sportsmen who represent Services and participate in recognized Senior National Championships for a minimum period of four years after getting the first out of turn promotion.

(ab) Sportsmen winning I/II/III position in Asian Championships or Commonwealth Games.

(ac) Sportsmen attaining at least a sixth position in Olympics.

(ad) On selection as the "best Services Sportsman"

(ae) On selection for the "ARJUNA" Award.

(iii) Grant of Seniority for Promotion : Sportsmen representing Air Force in Inter-services sports events either individually or as member of the team will be given six months seniority for promotion in next higher acting rank."

8. It is revealed from the record that Applicant had already been granted out of turn promotion twice on the sports ground. Thus he was not entitled for promotion under that head. Now his case was examined under general terms. The contention of the learned counsel for the Applicant, that requisite length of service in the case of the Applicant as he is a sportsman is not a bar, is not sustainable. Further that juniors to the Applicant in the list of warrant officers have been promoted in the above stated facts does not give ground to interfere as he was not completing requisite qualified length of service i.e. 26 years service.

Thus, Applicant was not entitled to be considered. The Applicant has already twice been benefited and got two out of turn promotions on sports grounds. On the basis of above discussions, we do not find any substance in his contentions. No interference is needed. Present application is dismissed. No order as to costs.

MANAK MOHTA
(Judicial Member)

Z.U. SHAH
(Administrative Member)

Announced in the open court
Dated : 10-12-2009