

COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

25.

MA 3647/2022 IN OA 1842/2022

Brig Kaushal Sreedharan Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. S.S. Pandey, Advocate
For Respondents : Mr. Rajesh Kumar Das, Sr, CGSC

CORAM

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

ORDER
23.11.2022

MA 3647/2022

Seeking an interim relief in a pending OA bearing No.1842/2022, this miscellaneous application has been filed for an interlocutory order and the relief claimed in this application reads as under:

- (a) Direct the respondents to put on hold the further processing and de-classification of the result of No.1 SB of Army Aviation Corps in which 1989 Batch has been considered till final disposal of the present OA.
- (b) Disclose the reasons for denial of promotion as recorded by the No.1 SB as mandated by the policy to enable the applicant to bring the legal impropriety of the same.

2. The applicant wants that result of No.1 Selection Board of Army Aviation Corps for the year 1989, which is pending

consideration for final adjudication in OA 1842/2022, be not de-classified and promotion based on the result of de-classification should be kept in abeyance.

3. Even though, various grounds are raised in this OA, primarily, the prayer made is based on the fact that for a single post, which was available, the claim of the applicant has not been considered in accordance to the policy and the system in vogue and relying upon a judgment passed in OA No.1934/2021 – *Brig Sudhir Nagpal Vs. Union of India and Ors.* decided by this Bench on 12th October, 2022, it is argued that in spite of directions issued by this Tribunal the respondents have not followed the mandate of the directions in its letter and spirit and in a illegal manner the Promotion Board has been conducted.

4. Respondents have filed a detailed counter affidavit to the OA on 17th November, 2022.

5. The only question warranting consideration at this stage is as to whether the results of the Section Board to the post of Maj Gen held in November 2022 should be stayed?. In our considered view, in the facts and circumstances that have come on record, we see no reason to stay the consideration or prevent the respondents from de-classifying the result of the Selection Board. Whatever action is taken by

the respondents based on the recommendations of the Selection Board, that would be provisional and subject to final decision of this OA and it would not cause any prejudice to the rights of the applicant to claim promotion to the post in case after final hearing he is entitled for the same.

6. Even though, during the course of hearing learned counsel for the applicant placed heavy reliance on an interlocutory order passed in OA 2637/2021 on 31st January, 2022 to say that in that case the de-classification of the result to the post of Lt Gen was stayed and, therefore, similar relief be granted to the applicant also. We are of the considered view that in that OA, which has been relied on, the facts were entirely different and we had found that in spite of recommendation by the Selection Board, the applicant therein was not granted promotion and in the peculiar facts and circumstances of that case de-classification was kept in abeyance which was subsequently vacated by this Tribunal.

7. Keeping in view the totality of the facts and circumstances of this case, for the present, we find no ground to grant any interim relief and the prayer for the same is rejected.

8. MA stands disposed of.

OA 1842/2022

List the OA on 7th December, 2022, the date already fixed.

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

(RAJENDRA MENON)
CHAIRPERSON

(P.M. HARIZ)
MEMBER (A)

/vks/