

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

OA 1861/2019

Ex Sub Maj/Lab Tech B Damodara Rao Applicant
Versus
Union of India & Ors. Respondents

For Applicant : In Person
For Respondents : Mr. Harish V Shankar, Advocate

CORAM

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

ORDER

This OA has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 with following prayer.

- (a) *Call for the entire record of Honorary Commission of Independence Day 2019 and Republic Day 2019 of Subedar Majors of AMC Corps for perusal by the Hon'ble Tribunal. And/or grant Honorary Commission i.e. Lieutenant and Captain along with all consequential benefits.*
- (b) *Direct respondent to pay the due arrears and consequential benefits with interest @ 12% per annum if the applicant is making up the grade in the merit for award of Honorary Commission.*
- (c) *Pass any other order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

Brief Facts of the Case

2. The applicant was enrolled in the Indian Army under the Army Medical Corps (AMC) on 21.12.1985. He served for a total of 33 years, 8 months, and 11 days. During his service, he was promoted to the rank of Subedar Major on 01.09.2015 with notional seniority. He was discharged from service

on 01.09.2019 upon completing his terms of engagement under Rule 13(3), Item I(i)(a) of the Army Act, 1950. The applicant's name was submitted by the AMC Records Office for the grant of Honorary Commission as Lieutenant on the occasion of Republic Day 2019, but he was not selected. His personal application, submitted in January 2019, requesting for empanelment for the Honorary Commission was replied to by the AMC Record Office.

3. During his service, the applicant was awarded the GOC-in-C's Commendation Card in 2007 and the COAS Commendation Card in 2012. He rendered field service in high-altitude areas, including Siachen Glacier, during the Kargil War from 1998 to 2000. Additionally, he worked as an instructor at the Armed Forces Medical College (AFMC) from 2010 to 2014, where his expertise as a Lab Technician led to significant contributions in isolating and diagnosing rare disease-causing organisms. In October 2018, the applicant received his service records and noticed that his COAS Commendation Card from 2012 and his upgraded Lab Technician qualification from 2010 were missing. These omissions were significant for his empanelment for an Honorary Commission.

4. Despite repeated grievances submitted in late 2018 and early 2019, no corrective action was undertaken nor the grievance acknowledged by the respondents. The applicant retired from service on 31.08.2019 without being granted the Honorary Commission he sought, despite being considered for the Honorary Rank of Lieutenant on multiple occasions. His name had been forwarded for consideration for an Honorary rank on the occasion of Republic Day 2020 at the time of filing this OA.

Arguments on behalf of the Applicant

5. The applicant appearing in person recapitulated his service profile and stated that his promotion was based on his exceptional service record, which includes significant contributions in the field, adherence to ACR criteria, military discipline, completion of important courses and recognition through medals and awards. The promotion itself was granted after the submission of a statutory complaint, further validating his competence and merit.

6. The applicant mentioned that he served in the 328 Field Hospital at Siachen Glacier, Partapur Sector (Siachen Glacier), J&K, from 1998 to 2000, during the critical time of the Kargil

War. This two-year high-altitude service is a significant achievement that should have been properly documented and considered for the applicant's eligibility for Honorary Commission. It is his grievance that this service record was initially concealed but later updated based on his complaint.

7. It was further submitted by the applicant that his professional expertise is widely recognized within the Armed Forces. From 2010 to 2014, the applicant served as an instructor at the Armed Forces Medical College (AFMC), a Class 'A' establishment, where his performance set a unique professional standard and was considered exemplary. His contributions to the medical field, especially as a lab technician, were instrumental in isolating and diagnosing rare disease-causing organisms. His work led to the publication of articles authored by him in prestigious journals like the *Medical Journal of Armed Forces of India (MJAFI)* and the *International Journal of Dermatology (Wiley)*, as shown in Annexures A-4 and A-5. It is also his grievance that when he was due for promotion to Subedar Major and was to be considered by the DPC, there were anomalies in the record due to which he was not selected for promotion. Consequently,

he filed statutory complaint based on which he was provided relief and the records were corrected and he was thereafter promoted to rank of Sub Maj during supplementary DPC held on 15.04.2015. However, he missed a chance for a foreign posting due to incomplete data on his record due to fault of the respondents.

8. The applicant highlighted that he was awarded the GOC-in-C's Commendation Card in 2007 and the COAS Commendation Card in 2012 (Annexure A-4), further reflecting his high-caliber contributions. Despite these recognitions, his service record was not updated in the Master Sheet, affecting his consideration for honorary promotions for which he filed a complaint from Base Hospital Delhi Cantt.

9. The applicant also stressed his vital role in preventing the spread of infections in post-surgery wounds caused by a rare strain of mycobacterium (NTM) at Command Hospital (SC), Pune. The applicant's expertise was pivotal in diagnosing the infection when other labs had initially failed. As a result of his findings, the operation theatre was shut down to prevent further contamination, an action that saved lives and showed

his unique skill set. This contribution should have been given significant weight in his application for Honorary Rank.

10. He further argued that on 03.10.2018, he received a Sheet Roll Extract from AMC Records and noticed omissions, such as the non-entry of his COAS Commendation Card (2012) and his qualification upgrade as a Lab Technician in 2010. These are critical achievements for the grant of Honorary Rank, and their absence from the record impacted his chances. Despite raising grievances multiple times on 13.11.2018, 05.12.2018, 02.01.2019, and 06.01.2019 regarding the incorrect record, the respondents failed to reply or acknowledge these grievances. This inaction, the counsel asserted, was arbitrary and unjustified, depriving the applicant of his rightful promotion to Honorary Lieutenant/Captain and the applicant retired from service on 31.08.2019 without grant of Hony Commission.

11. The applicant proceeded to submit that peers with similar or even lower service profiles and qualifications were granted Honorary Ranks, but the applicant was overlooked due to the incomplete and incorrect records maintained by the Record Office. The incomplete documentation of the applicant's field

service, awards, and qualifications should be rectified, and his case reconsidered on merit.

12. The applicant concluded by stating that had his complete service record been properly updated and maintained, he would have qualified for the grant of Honorary Rank. The arbitrary failure to update the records and the denial of the Honorary Commission has caused undue hardship to the applicant. It is, therefore, prayed that the Tribunal direct the respondents to rectify the service record, consider the applicant's case for the grant of Honorary Lieutenant/Captain, and provide all consequential benefits.

Arguments on behalf of the Respondents

13. The counsel for the respondents stated that the applicant, served honorably in the Indian Army from 21 December 1985 until his discharge on 01 Sept2019, totaling 33 years, 08 months, and 11 days of service. However, the applicant's claims for an Honorary Commission must be evaluated against the established procedures and eligibility criteria set forth by the Army Regulations.

14. The counsel further submitted that the recommendation for an Honorary Commission is not an automatic entitlement

but is determined by merit, based on comprehensive assessments of service records. The counsel emphasized that the applicant's performance and service record were scrutinized by a board of officers at the Command Headquarters and IHQ of MoD (Army), which processed the recommendations for Honorary Commissions. The applicant was indeed considered for the Honorary Commission twice—on Republic Day 2019 and Independence Day 2019—but unfortunately, did not meet the criteria necessary for selection as therefore not empaneled for the Hony Commission to the rank of Lieutenant.

15. The counsel further highlighted that the criteria for granting Honorary Commissions are laid out in Para 177 of the Regulations for the Army, which stipulates that the selection is made based on a points system that evaluates various aspects of a JCO's service. The counsel noted that the yardsticks for allocation of marks for Honorary Commission/rank are carefully defined, and the final decision is based on these evaluations.

16. The counsel for the respondents also pointed out that the system for processing recommendations is robust, computerized, and ensures that no external influences can manipulate the

results. Each recommendation is vetted for accuracy, ensuring a fair selection process. The applicant's assertion regarding the omission of the COAS Commendation Card from his recommendation form was clearly refuted, as documented in Annexure R-3, which confirms that the commendation was included in the evaluation.

17. Furthermore, the counsel asserted that the applicant's service was duly recognized, as evidenced by his grant of a service pension at Rs. 34,150/- per month. This reflects the applicant's overall service record, despite the non-selection for the Honorary Commission. The respondents submit that the award of the Honorary Commission is ultimately at the discretion of the Army based on a system of merit, the prevailing vacancies and the relative performance of all JCOs considered.

18. The counsel for the respondents further contended that the applicant's claim lacks merit, as the selection for an Honorary Commission is contingent upon multiple factors evaluated by a board of officers, and not merely upon the length of service and other achievements as claimed by the applicant. Hence the OA warrants to be dismissed.

19. We have heard the parties and perused the documents placed before us including the Nominal Rolls for grant of Hony Commission on Republic Day (RD)-2019 and Independence Day (ID)-2019. The short question that merits our consideration is whether the applicant was entitled to grant of Hony Commission on RD-2019 or ID-2019.

20. There is no dispute on the fact that the applicant has been awarded GOC-in-C Commendation Card (Western Command) on 26.01.2007 as per CH (WC) Part II Order No 0/0083/0016/2007 and COAS Commendation Card on 15.08.2012 as per AFMC Pune Part II Order No. 0/0163/0003/2013. A bare perusal of the Master Sheet for Hony Commission qua the applicant also brings us to conclusion that the applicant was Instructor at AFMC Pune from 02.09.2011 to 15.09.2014 and that AFMC is a Class A Training Establishment. The applicant service in Siachen Glacier (OP MEGHDOOT) has also been recorded in the master roll. We have also taken due note of AMC Records Signal No A 8015/4A dated 10 Jan 2019 placed as Exhibit R-3 to the effect that COAS Commendation Card has been included in the Data Sheet of the JCO on the occasion of RD-2019 and that Lab

Technician qualification will not be considered for Honorary Commission as per existing policy.

21. It is now essential to place on record the relevant contents of Ceremonial & Welfare Dte/CW-2, AG's Branch, Army HQ letter No B/43435/Policy/AG/CW-2 dated 30.09.1996, Para 2 of which is extracted as under :

"The entire service profile and performance of a JCO during his service is taken cognisance of and no single factor does over-raid other inputs. The following are taken into considerations while processing the recommendation for grant of honorary commission: -

(a) Service over 20 years,

(b) Service as Ris Maj/Sub Maj.

(c) Specialist appointments such as ADC to President/

COAS/GOC-in-C Commands/GOC Corps, Instructor in the rank of NCO/JCO at Category 'A' Establishment or foreign academy/School, PAs to COAS/VCOAS/Army Cdr/Corps Cdrs /PSOs and DGs of the rank of Lt Gens at Army HQ.

(d) Operational and Non-operational service outside India.

(e) Service within India in Field Areas where no active hostilities are involved, High Altitude and Uncongenial Climate areas, Field Areas where active hostilities are involved and Counter Insurgency areas.

(f) Annual Confidential Reports of the last five years.

Should have a minimum of three 'Above Average' ACR gradings.

(g) Army Courses completed with 'Distinction' and 'Above Average' gradings.

(h) Wounds suffered during conflicts.

(j) Decorations/Medals/Stars/Clasps/Commendations.

(k) Outstanding performance in sports."

Thus, it brings us to conclusion that the applicant is entitled to award of marks for being Instructor in AFMC, Pune.

22. We consider it pertinent to extract certain policy guidelines from the letters issued by the Army HQ which are relevant to the case under consideration:

“Tele : 23018193”

Ceremonial & Welfare Dte/CW-2
Adjutant General's Branch
Integrated HQ of MoD (Army)
South Block, Room No-279C
DHQ PO, New Delhi-11

B/43435/Policy/AG/CW-2
All HQ Command & Record Offices)

07 Jun 2018

FWD OF GENERIC YARDSTICKS FOR GRANT OF HONORARY COMMISSION
TO JCOs ON ACTIVE LIST

1. Ref the fwg :
 - (a) This HQ letter No B/43435/Policy/AG/CW-2 dt 16 May 2008.
 - (b) This HQ letter No B/43435/Policy/AG/CW-2 dt 30 Jan 2009.
 - (c) This HQ letter No B/43435/Policy/aG/CW-2 dt 26 May 2009.
2. Revised Generic Yardsticks for grant of Hony Commission to JCOs is given at Appx. You are requested to disseminate the contents of the Yardsticks too all units under your command. The revised Yardsticks will be applied on the JCOs being considered for grant of Hony Commission wef Independence Day 2019 (15 Aug 2019).
3. This supersedes this HQ letter No B/43445/Policy/AG/CW-2 dt 26 May 2009.

Sd/-xxxxx
(Ranjan Chengappa)
Col
Dir, CW-2
For Adjutant General

Appx
(Refers to IHQ of MoD (Army)/AG/CW-2 letter
No B/43435/Policy/AG /CW-2 dt 07 Jun 2018

Para 1 to 4

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xxx

Special Appointment

5. Following appointments will be given Weightage: -

(a) ADC to the President, COAS, VCOAS, DCOAS, CISC, GOC-in-C and Corps Cdr.

(b) Instr

- (i) JCO/NCO Instructor in Cat 'A' est or Foreign Academy/School.
- (ii) JCO/NCO Instructor in Cat 'B' est. Weightage to only those indls posted as Instr, who have earlier secured an Instr grading in the linked course from a Cat A est.
- (iii) To earn the mks each tenure will be not less than two years.

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Note : In a block of two yrs, service of 300 days in the second yr will be considered as having completed two yrs of service and mks will be given for two yrs.

Para 6 to 9

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Commendation Cards

10. Following will be given weightage:-

(a) COAS/COSC (Equivalent)

(b) VCOAS/GOC-in-C/CISC/C-in-C, SFC and A&N Comd (Equivalent).

(c) Freq. Weightage will be given to successive commendation cards only when earned after gap of three yrs. If there are more than one, then one having higher weightage will be considered. i.e. In a span of three completed yrs, an indl will get benefit of only one commendation card.

Para 11 to 15

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REVISED POLICY PARAMETERS FOR GRANT OF HONY COMMISSION TO JCOs ON ACTIVE LIST

Para 1

xxx

xxx

xxx

Yardsticks/Weightages

2. Op service

(a) Active Hostilities (War)

(i) Unit/Bde HQ	4 mks	Must have served at least 75% of the duration of War, unless evac from op area due to being battle cas.
(ii) Div HQ/Div Tps/ERE	3 mks	
(iii) Corps HQ/Corps Tps/ERE	2 mks	
(iv) Comd HQ/Comd Tps/ERE	1 mk	

(b) CI Ops. Weightage will be graded on a reducing scale based on loc of service as under:

(i) CI (Fd)	
(aa) Unit/Bde HQ	91 to 180 days - 1 mk
	181 to 365 days - 2mks
(ab) Div HQ/Div Tps/ERE	91 to 180 days - 0.75 ks
	181 to 365 days - 1.50 mks
(ac) Corps HQ/Corps Tps/ERE	91 to 180 days - 0.50 mk
	181 to 365 days - 1.25 mks
(ad) Comd HQ/Comd Tps/ERE	91 to 180 days - 0.50 mk
	181 to 365 days - 1 mk
(ii) CI (Mod Fd/Peace)	1 mk/yr
Cap -20 mks	

(c) *High Altitude and Uncongenial Climate Area.*

(i) HAA-I (9000 to 15000 ft)	91 to 180 days – 1 mk 181 to 365 days – 2 mks
(ii) HAA-II (15000 ft and above)	91 to 180 days -2 mks 181 to 365 days – 3 mks
Cap - 12 mks	

(d) *Fd Service within India.*

Fd/Mod Fd	1 mk/yr
Cap - 8 mks	

Note : In a block of two yrs, service of 300 days in the second yr will be considered as having completed two yrs of service and mks will be given for two yrs.

Para 3 to 7 xxx xxx xxx

8. Commendation Cards.

(a) COAS/COSC (Equivalent) -2 mks

(b) VCOAS/GOC-in-C/CISC/
C-in-C SFC and A&N Comd (Equivalent) -1 mk

(c) Cap - 3 mks

(d) Freq. Weightage will be given to successive commendation cards only when earned after gap of 3 yrs. If there is more than one, then one having higher weightage will be considered i.e. in a span of three yrs a indl will get benefit of only one award for distinguished service.

9. ADC. ADC to Corps Cdr and above – 1 mk, Max-1 mk

10. Instr

(a) Cat 'A' est – 2 mks/yr, max 4 mks

(b) Cat 'B' est – 1mk/yr, max 2 mks. Weightage to only those indls posted as Instr, who have earlier secured an Instr grading in the linked course from a Cat A est.

(c) To earn the mks each tenure will be not less than two yrs.

Note : In a block of two yrs, service of 300 days in the second yr will be considered as having completed two yrs of service and mks will be given for two yrs.

Para 11 to 18 xxx xxx xxx

23. We have given a detailed examination to consideration of the applicant for Hony Commission on the occasion of RD-2019 in two chance category. The applicant has scored 32 marks

against the cut off of 36 marks and is placed as serial No 2720 in the merit list. The last candidate awarded Hony Commission of Lieutenant is at Ser No 2701 in merit list and therefore there are 11 persons before the applicant and the last candidate awarded Hony Commission. The applicant has been awarded 04 marks for Special Appointment i.e. for Instructor in AFMC, Pune and 03 marks for Honours and Awards i.e. 02 marks for COAS Commendation and 01 mark for GOC-in-C Commendation Card. We do not find any other issue under contention in this consideration which is worth taking note of. We do not find any anomaly in the consideration of applicant by the respondents and therefore uphold the results of the same for RD-2019.

24. On a detailed perusal of the Merit List & Nominal Roll prepared on the occasion of ID-2019 as the last chance consideration of the applicant, we have taken note of the fact that with a score of 28 marks the applicant is once again placed below the cut off mark of 30 wherein he is stands at Ser No 2321 in the merit list whereas the last candidate selected for Hony Commission is at Order of Merit 2309 with 30 marks and there are 11 candidates above the applicant

in the category of not selected for Hony Rank in 14 merit list. However, on examination of break down of the marks, we have taken note of the fact that the applicant has not been granted benefit of 04 marks awarded earlier for having held the appt of Instructor in AFMC Pune. There is no evidence on record or any policy guidelines to suggest that marks from the same appointment once considered for a Hony Commission is not to be considered again. Taking note of the above observation we have come to a conclusion that the applicant was entitled to award of 04 marks for having been an Instructor appointment in AFMC, Pune and the same benefit has been inadvertently not granted to the applicant during his consideration for Hony Commission. If the benefit had been granted to the applicant, his total marks would have been 32 which is above the cut off marks of 30 awarded to last candidate found eligible for grant of Hony Commission.

25. Having taken note of our above conclusion we hold the applicant entitled to grant of Hony Commission on Independence Day 2019. Accordingly, we direct the respondents to grant the Hony Rank of Lieutenant on the occasion of Independence Day 2019. The applicant shall be

entitled to all consequential benefits including pension from the date of retirement. However, he shall not be granted any benefit of Pay from the date of grant of Hony Commission till date of retirement on the principle of no work no pay for having performed the assignments of Hony Lt for the intervening period till retirement.

26. Consequently, the aforesaid OA is disposed of in terms of above directions.

27. No order as to costs.

Pronounced in the open Court on 9th December, 2024.

JUSTICE RAJENDRA MENON)
CHAIRPERSON

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

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