

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

OA 203/2022

Sep Govind Singh ... Applicant
Versus
Union of India &Ors. ... Respondents

For Applicant : Mr. Manoj Kr Gupta, Advocate
For Respondents : Ms. T Murugesan, Advocate

CORAM :

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of The Armed Forces Tribunal Act, 2007, the instant OA has been filed with following prayers:

“(a) Issue direction to the Respondent to declare applicant qualified for re-mustering with notional seniority at par with his colleagues who were declared qualified in the same course and his Fresh Mark Sheet which have been received after due verification rom NIOS make him eligible for aid re-mustering; and/or

(b) Direct the Respondents to permit the applicant to re-mustered as Clerk (SD) considering his successful completion of more than half of re-mustering course and the let out training if any, may be carried out as on job training which will be beneficial for both applicant and respondent; and/or

(c) An direction to produce all record with regard to re-mustered candidates in year 2020-21 by DSC Record or Pass such other and further order/directions to meet the ends of justice.”

2. The applicant who is a soldier in Defence Security Corps (DSC) since 15.07.2018 had applied for re-mustering from Soldier (General Duty) to Soldier Clerk (Staff Duty) in response to Circular No.CA-1/1631/Rem/Corres dated 24.09.2020 by the Respondent No 3, i.e., Defence Security Corps Records in September 2020. The applicant having qualified in the Screening Test for selection, joined the Re-mustering Course in December 2020.

3. However, applicant was withdrawn from the course midway for reason of not meeting the educational qualification criteria of 10+2 wherein it was stated that the applicants were required to have a minimum overall aggregate of 45% and minimum qualifying marks of 33% in each subject. As per Mark Sheet issued by National Institute of Open Schooling (NIOS) dated 05.06.2015 the applicant had obtained 20 marks in Political Science and therefore he was disqualified due to not meeting the criteria laid down vide IHQ of MoD (Army) letter No. B/10185/MP-3 dated 08.05.2020 and accordingly he was returned to his unit by the respondents. It is pertinent to observe that the

Provisional Certificate issued by NIOS dated 05.06.2015 does not include the sixth subject of Political Science.

4. The applicant submitted his Mark Sheet of 10+2 once again on 23.06.2021 wherein the subject of Political Science has now been deleted; being the optional and additional subject and therefore he is found to be eligible as per the laid down policy for re-mustering. The Provisional Certificate dated 05.06.2015 and Mark Sheet dated 28.07.2021 issued by NIOS are extracted below:-

Roll No. 340045143079

Serial No. 15 081180

AI NO : 340045

REG14/2581109

*NATIONAL INSTITUTE OF OPEN SCHOOLING
An Autonomous Institution under MHRD
Govt of India*

PROVISIONAL CERTIFICATE

This is to certify that **GOVIND SINGH**
Son/Daughter of **RAMEHWARI DEVI** (Mother)
SAMSHER SINGH (Father)
(Guardian)

has passed the Senior Secondary School Examination of National Institute of Open Schooling held in APRIL-2015 in the following subject :

HINDI
DATE ENTRY OPER.
ENGLISH

PAINTING
HISTORY

XXXX

NOIDA(NCR)

Dated : 05/06/2015

Director (Evaluation)

Note : This certificate is given provisionally pending issue of original certificate

Serial No D 158778

REG14
AINO : 340045

NATIONAL INSTITUTE OF OPEN SCHOOLING
An Autonomous Institution under MHRD
Govt. of India

MARKS STATEMENT

SENIOR SECONDARY SCHOOL EXAMINATION APRIL -2015

Name **GOVIND SINGH**

Mother's Name **RAMEHWARI DEVI** Roll No. **340045143079**

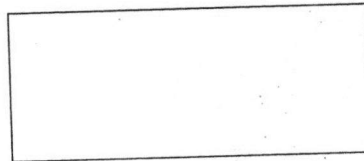
Father's Name **SAMSHER SINGH**
Guardian's Name

CODE	SUBJECT	MAX MARKS	MARKS OBTAINED					GRADE
			Theory	Practical	TMA	Total	Total words in	
301	HINDI	100	055	xx xx	55	P	Fifty Five	E
332	PAINTING	100	016	051 xx	67	P	Sixty Seven	D
336	DATA ENTRY OPER.	100	013	050 xx	63	P	Sixty three	D
315	HISTORY	100	050	xx xx	50	P	Fifty	F
302	ENGLISH	100	044	xx xx	44	P	Forty four	F

TOTAL = 279 Two Hundred Seventy Nine

ENROLLED FROM : **UTTRAKHAND**

Result **PASS**



NOIDA
(NCR)
Dated : 28/07/2021

Sd/-
Director (Evaluation)

5. Having heard both the parties and perused the documents placed before us including the Mark Sheet dated 28.07.2021, we find that respondents were not wrong in declaring the applicant ineligible for the said re-mustering course due to inclusion of sixth subject of Political Science in the Mark Sheet issued by NIOS dated 05.06.2015, in which the applicant had scored 20% marks.

6. However, in view of the final Mark Sheet issued on 28.07.2021 wherein we find that the sixth subject of Political Science has been excluded being only an optional subject and not a compulsory one, the applicant meets the minimum education criteria laid down for re-mustering.

7. In view of the aforesaid analysis, we direct the respondents to permit the applicant to complete the course for re-mustering in trade of Clerk (Staff Duty) as laid down in their policy letter dated 24.09.2020 and on qualifying such course, he shall be re-mustered in the trade of clerk (staff duty) along with all consequential benefits and the same shall be given effect to within three months from the date of pronouncement of this order.

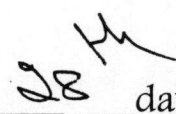
8. His seniority for re-mustering shall be as per his intra

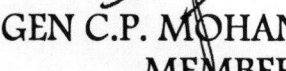
batch seniority amongst the individuals re-mustered in pursuance to DSC Records letter dated 24.09.2020.

9. No order as to cots.

10. Pending miscellaneous application(s), if any, stand closed.

Pronounced in the open Court on 28 day of May 2024.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


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

Akc