

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

9.

MA 2386/2024 with MA 5484/2024 in OA 2152/2021

Lt Cdr Navneet Sharma Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. R S Chhillar, Advocate
Cdr Shantanu Kumar Srivastava, Dy Judge
Advocate, DNL, Indian Navy

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN CP MOHANTY, MEMBER (A)

ORDER
15.07.2025

MA 2386/2024

The applicant vide the present application makes the following
prayers:-

*“(a) Restore the Applicant’s O.A. No. 2152 of 2021
and direct the registry to list the same for hearing on
any convenient date; and
(b) Pass any other order or direction as may deemed
appropriate in the facts and circumstances of the
case.”*

2. OA 2152/2021 and MA 990/2023 filed by the applicant
were dismissed as withdrawn vide order dated 02.05.2023. The
proceedings of the date 02.05.2023 read to the effect:-

*“OA 2152/2021 WITH MA 990/2023
Learned counsel for the applicant submits that he
has instructions to withdrawn the original*

application. Thus, both the OA and MA are dismissed as withdrawn."

3. Prior to the date 02.05.2023, the proceedings in OA 2152/2021 with MA 990/2023 were listed at Sr. no. 43 for the date 06.04.2023 with 43 other connected matters, in as much 44 OAs were listed for the same date. The proceedings of the date 31.10.2022 on which date 171 OAs were listed indicate that the OA 2152/2021 that had been with filed by the applicant hereinabove was listed at Sr. 112 on the day, when the applicant represented by his learned counsel. The proceedings of the date 31.10.2022 read as under:-

"Vide these applications, respondents in the respective OAs have sought condonation of delay in filing their counter affidavits. Delay is condoned. Counter affidavits are taken on record. All above MAs stands disposed of accordingly."

and in as much as the case of the applicant was listed at Sr. no. 112, the proceedings specifically relate to item nos. 50 to 171 listed for that day, inclusive thus of the proceedings qua the applicant. The applicant was thus conscious of the order dated 20.10.2022 in Civil Appeal nos. 841-843/2022 of the Hon'ble Supreme Court in the case of *Cdr Amit Kumar Sharma etc vs. UOI & Ors. etc* whereby vide Paras-31 to 33 thereof, it was directed to the effect:-

"31. For the above reasons we are of the view that a remand to the AFT would be necessitated. We are conscious of the fact that the AFT carried out a painstaking exercise while disposing of the OAs but there has been a clear breach of the principles of

natural justice. We are of the considered opinion that the AFT should be directed to reconsider the entire matter afresh.

32. We accordingly allow the appeals and set aside the impugned judgment of the AFT. The OAs corresponding to the appeals which are filed before this Court are restored for fresh adjudication by the AFT. During the pendency of these proceedings, as already noted, some of the officers in this batch of appeals including some interveners have continued in service as a result of the protective orders operating in their favour while the tenure of one officer is to end in December 2022. We direct that the officers who are protected by interim orders of this Court shall continue to have the benefit of those orders pending the disposal of the proceedings before the AFT and thereafter for a period of eight weeks from the date of the decision of the AFT should it become necessary for them to assail the judgment before this Court in appeal. The officer whose tenure is to end in December 2022 shall also be entitled to the benefit of the same protection.

33. We request the AFT to dispose of the OAs which have been restored to the file of the AFT expeditiously and preferably by the end of February 2023."

4. The said aspect has been brought forth through the proceedings dated 31.10.2022 already reproduced hereinabove. Despite the order of the Hon'ble Supreme Court dated 20.10.2022 in Civil Appeal nos. 841-843/2022 in *Cdr Amit Kumar Sharma etc vs. UOI & Ors.*, the applicant on 02.05.2023 chose to withdraw the OA which was thus dismissed as withdrawn.

5. The submission now made by the applicant vide Paras-3,4,5,6,7 and 8 of the present application dated 29.05.2024 filed more than a year after the withdrawal of the OA 2152/2021 with MA 990/2023 dismissed as withdrawn on 02.05.2023 seek to

submit to the effect that the withdrawal of the OA by the applicant was under compelling circumstances beyond his control and that the applicant is now mentally and financially stable as settled in and around Delhi and wishes to pursue the OA and seeks justice. The submissions that have been made vide Para-3 of the applicant have been refuted by the respondents vide their response dated 05.12.2024 to the application under consideration with it having been stated that Paras- 3 and 4 of the reply in the 'Brief Background' to the effect:-

"3. That as per Hon'ble Supreme Court judgment in Civil Appeals 2182-87/2020 dated 17 Mar 2020, SSC Officers who were in service or before various courts were to be considered for grant of PC. Further, as per Para 96(xi) of judgement, "all SSC women officers to be considered for grant of PC and as a one-time measure who were before the High Court and the AFT, and who are not granted PCs shall be deemed to have completed substantive qualifying service for the grant of pension and shall be entitled for all consequential benefits.

4. That since this selection was a maiden wherein, large number of SSC officers were under consideration and serving in their last year of service. Accordingly, all SSC officers were considered for grant of PC twice by the same Selection Board. The applicant [Cdr Navneet Sharma (06341K) (Retd)] is logistics officer from 2009 Batch, he was provided two looks and considered twice by placing in merit-cum-suitability list i.e. first look with 2008-09 Batch (for one vacancy) and second look with 2009-10 Batch (for one vacancy). However, the applicant missed the selection for PC being low on inter-se merit-cum-suitability list."

6. Significantly, vide Para-3 of the reply to the application for the restoration of the OA at Para-17 thereof, it has been submitted to the effect:-

Wrong
"Para 3. That the contents of para 3 are denied being wrong and false in the manner stated. It is submitted that the applicant is trying to mislead the Hon'ble Court. The transfers are affected based upon service exigencies. The applicant was transferred to INS Kattaboman, but the same was never affected as the applicant had made a request for modification of his transfer on medical grounds of his son. Accordingly, his transfer was modified and instead he was transferred to INS Angre for duties. The applicant was accordingly internally transferred to BLO (Mumbai) and as such, there was no change of station.

It is submitted that the applicant applied for release from Naval service vide his request dated 12 May 2023 (Annexure R-1). The contents of his request for release from service would indicate that he has attributed reason for putting up the request for release due to ongoing court cases and frequent transfers. It is submitted that the reasons put forth by the applicant are purely based upon his own assessment and perception and the same cannot be attributed to respondents".

7. The submissions thus that have been made by the respondents that the applicant withdrew the OA 2152/2021 of his own accord has to be accepted, and the applicant cannot be permitted to withdraw the OA and then seek redressal afresh by revival of the said OA without having made a prayer seeking liberty to seek any such redressal whilst withdrawing the OA which the applicant had withdrawn consciously. In the circumstances, the prayer made vide MA 2386/2024 is dismissed as being devoid of all merits.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(LT GEN CP MOHANTY)
MEMBER (A)