

15/8/2024

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

MA 3336/2025 IN OA 4925/2024

Col Anju Dalal (Retd) Applicant
Versus Respondents
Union of India & Ors.

For Applicant : Ms. Pooja Dhar and
Ms. S.Ambica, Advocates
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

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

ORDER

Original respondents have filed this MA praying for modification of order dated 11.07.2025 and recall the directions passed at Para 67 (a) of the aforesaid order.

2. It has been argued by the original respondents that while passing the directions enshrined in Para 67 (a), this Tribunal has not considered submission made by respondents that applicant was not deferred in No. 2 SB due to lack of criteria CRs in the rank of Major/Lt Col and instead was withdrawn due to non-fulfilling mandatory AE period in Colonel Command criteria CR and thus Para 3 of MS Branch Policy

letter 04502/MS Policy dated 01.12.2021 and Para 6 of MS Branch Policy letter 04479/MS Policy dated 06.06.2011 has not come in the way of the applicant for her withdrawal from No. 2 SB.

3. It has further been submitted that if the directions of this Tribunal at Para 67 (a) are to be implemented it will be disadvantageous to majority of women officers who have been empanelled by special No. 3 SB and that would also re-editing of all CRs in respect of women officers based on the appointment and the place of posting. In light of the foregoing, the respondents pray or a partial modification to our order dated 11.07.2025 to the effect that the applicant be considered by a No 2 Selection Board (2 SB) as a Special Review Case instead of the direction contained therein to consider the applicant by "Special No 2 SB" for which no existing provisions of policy permit.

4. Per contra, Ms Pooja Dhar, learned counsel for applicant submits that the order of this tribunal needs no further modification since the applicant is entitled to be considered by a Special No 2 SB similar to Special No 2 SB & Special No 3 SB held to consider the Women Officers in line with judgment of Hon'ble Supreme Court in the case of *Babita Puniya (supra) and Lt Col Nitisha (supra)*

5. We have heard the learned counsel for the parties at length. Upon due consideration, we are of the view that the directions contained in Para 67(a) of our order dated 11.07.2025 were passed after recording a clear finding that the applicant was entitled to the conversion of her non-criteria reports into 'criteria' reports, at par with her male counterparts. Consequently, in our considered opinion, the directions contained in Para 67(a) and 67(b) of the aforesaid order warrant no interference or modification.

6. In regard to Para 67(c) of our earlier order, and upon a fair re-evaluation of the rival submissions, we deem it appropriate to once again record that the grievance of the applicant arose from her being shown as 'Withdrawn' from the No. 2 Selection Board held in December 2023 and June 2024, on the ground of 'Not fulfilling the mandatory AE period'. By virtue of our directions at Para 67(a) and (b), the applicant has been rendered AE-compliant, and thereby stands eligible for consideration by the No. 2 Selection Board in December 2023 and June 2024, as part of her original batch, without the stigma of having been marked 'Withdrawn'. Consequently, it stands directed that the applicant shall be considered by the same promotion boards from which she had earlier been withdrawn. In effect, her right to a fair consideration at

par with her batchmates has been restored to the position of *status quo ante*.

7. We have no reason to differ with the submissions on behalf of the respondents that constituting a Special No 2 SB would amount of release of one vacancy exclusively in favour of the applicant where she will have the unfair advantage of being the lone candidate for the only vacancy without being compared to any benchmark or competing candidate. Therefore, in light of above discussion, we direct a partial modification to our order in OA 4925/2024 dated 11.07.2025 at Para 67(c) which stands modified as under by virtue of the power available to this Tribunal under Rule (25) of the AFT (Procedure) Rules, 2008:-

(c) Consequently, the applicant shall be considered by a duly constituted No 2 SB as a Special Review case with her original batch considered in December 2023 as per extant rules prevailant at that time within four months from the date of pronouncement of this order and if the applicant succeeds in the said No 2 SB :-

(i) She shall be eligible for promotion to the rank of Brigadier.

(ii) Considering that the applicant is presently reemployed, she shall be reinstated in the service in not more than 15 days of the declaration of the result of Special No. 2 SB and further, be allowed to be considered for further promotion to the further ranks.

(iii) Her seniority shall be re-fixed as per her original seniority within her batch.

(iv) However, she shall not be entitled to the pay & allowances in the rank of Brigadier during the intervening period.

8. Our attention has been drawn by the Respondents to a letter issued by MS Branch on 29.03.2024, Para 16 of which reads as under :~

“16. Extrapolation of Reports. Primacy of criteria reports will be maintained. The reports earned by the WOs in Lt Colonel/Major ranks were captured as Non-Criteria reports, therefore for the conduct of No 2 SB, their criteria reports in Lt Colonel/Major ranks will be extrapolated from the command criteria reports earned in Colonel Rank. In case any WO doesn’t earn non-criteria report in Colonel’s rank due to lack of time, the same will be extrapolated from non-criteria reports in Maj/Lt Col rank in reckonable profile as the extant policy provns. Illustration of the same is given at Appendix B.”

9. However, noting the factum that the policy letter was issued after the applicant was considered for the first time by No 2 SB in December 2023 and that the aforesaid dictions would adversely

affect several women officers who have been earlier promoted by virtue of advantage conferred by the aforesaid policies of MS branch, we hereby direct that this case shall not be treated as precedent in view of the peculiar facts and circumstances of the case.

10. With the aforesaid directions the MA stands disposed of

11. Pronounced in open Court on 29 day of August, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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