

13/11/25

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

99.

MA 5967/2025 IN OA 5206/2024

Brig Sushil Kumar Kaushik ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ankur Chhibber, Advocate  
Mr. Nikunj Arora, Advocate  
For Respondents : Mr. K K Tyagi, Sr. CGSC

CORAM

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

ORDER  
19.12.2025

MA 5967/2025

Invoking the jurisdiction of this Tribunal under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008, the applicant seeks an appropriate direction from this Tribunal and the directions sought for in the prayer clause read as under:

*“(i) Pass on order directing the respondents to convene the Special Promotion Board (AFMS) for considering applicant for promotion to the rank of Major General afresh and if he is selected, then to promote him to the rank of Major General before the superannuation of the applicant which is due on 31.12.2025, or in the alternative, to stay the superannuation of the applicant till the respondents complete such process as per the direction of this Hon'ble Tribunal vide order dated 29.10.2025 passed in OA No.5206 of 2024; and*

*(ii) Pass any such orders as the Hon'ble Tribunal may deem fit in the light of above mentioned facts and circumstances of the case.”*

2. The applicant is a serving Brig in the Army has invoked the jurisdiction of this Tribunal by filing an application under Section 14 of the Armed Forces Tribunal Act, 2007, being OA No.5206/2024, challenging the Annual Confidential Report (ACR) for the period 01.01.2019 – 02.10.2019 and for reconvening a Promotion Board to consider him for promotion to the rank of Major General. By an order passed on 29.10.2025, the OA was allowed and the directions issued in Para 21 reads as under:

*“21. In view of the above, it is directed that the entire assessment of the IO in the impugned CR of 2019 be set aside and the applicant be afforded a Special Promotion Board (AFMS) based on his changed profile. The said board be conducted within three months from the date of the order and a report made to this Tribunal.”*

3. It is the grievance of the applicant that in spite of the directions issued on 29.10.2025, the respondents have not convened the Special Promotion Board (AFMS) based on the changed profile of the applicant and no decision has been taken in the matter and in the meanwhile, the applicant shall superannuate from the rank of Brig on 31.12.2025. Therefore, the prayer made is that the applicant be permitted to continue in service and his superannuation be stayed till his case is considered by the Special Promotion Board (AFMS). In support of his contention, he invited our attention to an order passed under similar circumstances on 30.05.2014 in

OA 255/2014, Brig. P.K. Sharma Vs. Union of India & Ors., where the retirement of the officer in the cadre of Brig was stayed by this Tribunal till consideration of his case for promotion to the rank of Major General.

4. Seeking stay of his retirement on 31.12.2025 till consideration of his case by the Special Promotion Board (AFMS) in accordance to the directions issued on 29.10.2025 in OA 5206/2024, the applicant has filed this OA. However, the respondents objected to the same and argued that while allowing the OA of the applicant on 29.10.2025, this Tribunal had granted three months' time to the respondents to take action. The three months period will be over only on 29.01.2026 and challenging the order of this Tribunal, the respondents proposed to file a Writ Petition before the Hon'ble High Court. That apart, learned counsel for the respondents invited our attention to an order passed by the Hon'ble Supreme Court on 14.10.2025 in the case of Harpreet Singh, Director, The Haryana State Co-operative Apex Bank Ltd. Chandigarh Vs. Om Parkash Rana & Ors., in SLP(Civil) No.24294/2025, wherein in Para 8 the following principles of law have been curled by the Hon'ble Supreme Court:

*"8. It is a well-settled principle of law, which we reiterate, that in cases where a person has attained the*

*age of superannuation as prescribed under the applicable rules, no interim order should be passed permitting continuation in service beyond that age. Such orders are not only contrary to public policy but also against the well-settled canons of law."*

5. Based on the aforesaid, it is the contention of the respondents that as the applicant would be attaining the age of superannuation in his cadre as Brig on 31.12.2025, any interim order passed permitting him to serve beyond the age of superannuation would be contrary to public policy as held by the Hon'ble Supreme Court and cannot be granted.

6. Having heard learned counsel for the parties on the issue in question as detailed hereinabove and taking note of the fact that the applicant will attain the age of superannuation in his cadre post of Brig on 31.12.2025, we see no reason to grant any interim relief to the applicant.

7. Accordingly, the MA stands dismissed.

8. A copy of this order be provided **'DASTI'** to learned counsel for the parties.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

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