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COURT NO. 3
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 1295 of 2017

G.K. Mandal Ex MCPO-II CDI ... Applicant

Versus

Union of India & Others Respondents

**For Applicant : Mr. Anil Kumar Srivastava,
Advocate**

For Respondents : Mr. Neeraj, Advocate

WITH

OA No. 1371 of 2021 WITH MA 734 of 2022

MCPO-II CD Suresh Kumar (Retd.) ... Applicant

Versus

Union of India & Others Respondents

**For Applicant : Mr. Anil Kumar Srivastava,
Advocate**

For Respondents : Ms. Barkha Babbar, Advocate

CORAM:

HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

1. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicants have filed their OAs

and the reliefs claimed in Para 8 are read as under respectively:

OA 1295/2017

“(a) The applicant be awarded the pensionary benefits of the rank of Sub. Lt. w.e.f. 26.01.2017, with all consequential benefits @ 12% per month by quashing the impugned order at Annexure A-1 (colly) and A-2 (colly) by deeming him to have been awarded the rank of Hony. SLT as on 26.01.2017 with all consequential benefits; (b) The applicant be granted other relief(s) which this Hon’ble Tribunal may deem appropriate, just and proper in the interest of justice and in the facts and circumstances of the case.”

As amended vide Order dated 01.08.2018 in MA 1332/2017 in OA 1295/2017. The amended Para 8(a) of the prayer clause states to the effect: -

“The applicant having deemed to have been conferred the award of the Honorary Sub Lt. w.e.f. 26.01.2017 with all consequential benefits be granted the pensionary benefits arising / emanating therefrom with 12% interest per annum by quashing the impugned orders dated 06.04.2017, 11.12.2015 and 14.09.2015 at Annexure A-1 Colly and A-2 Colly.”

OA 1371/2021 with MA 734/2022

“A. The order of the Respondents dated _ May 2021 (the extract of which have been Annexed as Annexure A-1 colly) but since the order has not been given to the applicant its letter no. and exact date cannot be specified him in rejecting the RoG of the applicant be set aside on the grounds of legal unsustainability as also being discriminatory and arbitrary to the past practice followed by Respondents in this regard and the summary awards No. 12 and 14 quashed being legal unsustainable.

B. The applicant be awarded the pensionary benefits of the rank of Sub. Lt. with effect from 26.01.2021, with all consequential benefits and interest @ 9% on the arrears thereof by deeming him to have been awarded the rank of Hony. Sub. Lt. as on 26.01.2021 with all consequential benefits;

C. to pass any other and further order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the facts and circumstances of the case.”

BRIEF FACTS OF THE CASE

OA 1295/2017

2. The applicant was enrolled in the Indian Navy on 08.01.1983 and discharged from service on 31.10.2017 as a Master Chief Petty Officer (MCPO-II) after completion of 34 years and 04 months of regular service without being awarded the rank of Hony. Sub Lt.

3. A Board of Inquiry (BOI) was convened against the applicant and the applicant was subsequently awarded non-warrant punishment no. 12 (stoppage of leave for 14 days) and punishment no. 14 (Admonition). The applicant had applied for the award of Honorary Commission as Sub Lieutenant on the occasion of 26.01.2017.

4. The applicant had made a representation dated 24.02.2017 to the Chief of Naval Staff [Annexure A-1 (colly)] against the non-grant of Hony. Commission in the rank of Sub. Lt. (Special Duties) stating that the punishments awarded to the applicant would not carry any adverse effects in awarding the rank of Hony. Sub. Lt.

5. The case of the applicant for the grant of the award of the rank Hony. Sub Lt., despite the trial conducted on 24.01.2016, was forwarded by the Commanding Officer vide his letter dated 07.10.2016.

6. The IHQ-MoD (Navy), Directorate of Personnel Services vide letter No. HA/2504/Hon Comm/GK Mandal, dated 06.04.2017 (Impugned Order) rejected the representation dated 24.02.2017 made by the applicant stating that the applicant was tried summarily and was awarded punishment in accordance with Navy Act, 1957 and hence, he does not fulfill the requisite criteria for the grant of Hony. Commission in terms of Para 4(f) of the Navy Order 25/2011.

OA 1371/2021

7. The applicant was enrolled in the Indian Navy on 07.05.1987 and discharged from service on 01.06.2021 as a Master Chief Petty Officer (MCPO-II) after completion of 34 years and 25 days of regular service without being awarded the rank of Hony. Sub Lt.

8. A Board of Inquiry was convened against the applicant to investigate into the circumstances qua dive practice, misrepresentation and falsification of the official records and the applicant was awarded non-warrant Punishment No. 12 (Stoppage of Leave for 14 days) and No. 14 (Admonition) on 06.09.2016 by the Commanding Officer, INS Abhimanyu for the offence of performing duties with negligence.

9. The Board of Officers for the award of Honorary Commission after due examination did not recommend the case of the applicant for the award of Hony. Commission on the occasion of 26.01.2021.

10. The applicant against the non-grant of the award of Hony. Commission as Sub. Lt. had submitted his Redressal of Grievance (RoG) to the Commanding Officer, INS Abhimanyu, Naval Station, Karanja, Mumbai vide letter dated 03.02.2021 seeking the grant of Hony. Commission on the grounds of good service records.

11. The case of the applicant for the grant of the award of the rank Hony. Sub Lt., despite the trial conducted on 24.01.2016, was forwarded by the Commanding Officer vide his letter dated 08.10.2020.

12. The respondents had rejected the ROG dated 03.02.2021 submitted by the applicant and the decision on disposal of his ROG had been communicated to the HQ-Western Naval Command vide letter No. HA/2504/Hon Comm/Suresh Kumar, dated 12.04.2021.

13. Both the applicants being aggrieved with the non-grant of the award of rank of Hony. Sub. Lt. by the respondents,

have filed their respective OAs. In the interest of justice, in accordance with Section 21(1) of the AFT Act, we take up the present OAs.

CONTENTIONS OF THE PARTIES

14. It is a common ground in both the applications, i.e., OA 1295/2017 GK Mandal Ex MCPO-II CDI and OA 1371/2021 MCPO-II CD Suresh Kumar (Retd.), that the applicants have been denied the grant of Honorary Commission as Sub. Lt. by the respondents, due to their blemished record of service as the applicants were involved in a disciplinary case and were awarded non-warrant punishment No. 12 (Stoppage of leave of 14 days) and No. 14 (Admonition).

15. Since the grievance of both the applicants is based on the same cause of action i.e., denial of the award of the rank of Hony. Sub. Lt., both the applicants being represented by the same counsel Sh. Anil Kumar Srivastava has submitted that the award of the rank of Hony. Sub. Lt. was denied to the applicants despite their outstanding service spanning over 34 years.

16. The learned counsel for the applicants further submitted that the provisions of Navy Order 25/2011 read

with Section 81 of the Navy Act, 1957 renders it unequivocally clear that the punishments which were awarded to the applicants are 'summary punishment' and not 'warrant punishment', and hence, the same is not going to have any adversarial consequence in any future promotions, awards, etc.

17. The learned counsel for the applicants further submitted that under the Statutory Regulations no. 67 and 70, it is made clear that the punishment of 'Admonition and Stoppage of Leave' are not substantive punishments, and hence, will not carry adversarial consequences for the grant of the award of the Honorary rank.

18. Further, it has been submitted by the learned counsel for the applicants that the trial conducted on 21.04.2016 for the alleged offence committed between 2009 and 2011 was not only barred by limitation *vide* Section 79 of the Navy Act, 1957, but was also conducted by the incorrect authority. In this regard, it is highlighted that since the trial was convened on the basis of a pseudonymous letter received by CAG alleging corruption by the naval personnel in maintaining diving records by the Staff at Indian Navy Diving Team (INDT)

at Delhi, the trial ought to have been conducted by the Commanding Officer INS India (at Delhi) rather than INS Abhimanyu (at Mumbai) who had no documents which formed the part of allegations levelled against the applicants. The learned counsel further submitted that the case of the applicants herein that the punishment of 'stoppage of leave for 14 days and 'admonition' were pre-decided.

19. The learned counsel for the applicants further submitted that irrespective of the prejudice that might have been caused due to the trial dated 21.04.2016, the respective Commanding Officer of the applicants had forwarded the application form for Honorary Commission as Sub. Lt. and in this regard, the learned counsel had placed emphasis on numerous medals and recommendations received by the applicants during the tenure of their respective service.

20. *Per contra*, it is submitted by the learned counsel for the respondents that the award of the grant of the rank of Hony. Sub. Lt. to MCPOs will be in accordance with Para 4 of the Navy Order 25/2011. Clause (f) of Para 4 of NO 25/2011 clearly stipulates that MCPOs will be considered for the grant of the said award where 'unblemished record of service' is

maintained throughout the service in addition to the benchmark of maintaining 'Very Good' (VG) service for the preceding 20 years of service.

21. The learned counsel for the respondents placed reliance on the Order of the Hon'ble Delhi High Court dated 03.10.2008 in W.P.(C) 6131/2008 in the case of **hogat v. UOI**, wherein while dismissing the writ petition it was held that there cannot be any inherent right to get an Honorary Commission. It was held that non-grant of an Honorary Commission is on the basis of a cogent criteria that a person who has a disciplinary award against him will not be granted such Honorary Commission, even if the benchmark of very good is satisfied.

22. It was further submitted by the learned counsel for the respondents that the applicants were involved in entering the records pertaining to conduct of dives, misrepresentation, falsification of records and admitted fraud which amounted to erroneous claims of 10.24 lakhs.

ANALYSIS

23. Since the moot question for consideration in both these applications is substantially similar, these Original Applications are clubbed together for the purposes of adjudication via a common order of the even date.

24. It is not in dispute that the applicants in both the OAs were involved in a disciplinary case and a Board of Inquiry was convened against the applicants and the applicants were awarded non-warrant Punishment No. 12 (Stoppage of Leave for 14 days) and No. 14 (Admonition).

25. For the purpose of grant of the award of Honorary rank as Sub. Lieutenant / Lieutenants, the eligibility has to be determined as per the 'Guidelines' as laid down in Para 4 of the Navy Order 25/2011. Para 4 of the Navy Order 25/2011 states as under: -

"Guidelines

4. The selection Board is also to be guided by the Approach Paper being forwarded by Integrated Headquarters of Ministry of Defence (Navy), wherein service requirements, which may change from time to time will be incorporated. The specific attributes which are to be examined in addition by the selection board are length of service including sea service, overall service performance/ achievements, awards & achievements in sports, instructional duties,

conduct and discipline etc. In addition, guidelines for evaluating eligibility of MCPO I/II for Honorary Commission are given as under: -

- a) Sailors whilst carrying out instructional duties in the authorize 'I' billet in training establishments as well as afloat billet would be eligible for due weightage provided the duties have actually been performed and entry to this effect has been made in the Performance Evaluation Sheets (PE Sheets) of the Service Documents as well as in the Annual Confidential Report (IN 1032 Revised) initiated upon the sailors, in addition to issue of relevant GX by the respective units.*
- b) Methods qualified sailors of other branches would also be eligible for due weightage for instructional duties as para 4(a) above.*
- c) MCPOs should have been assessed not below VC at each year for the preceding 20 years (VG(Star) will be treated as assessed VC for all purposes as stipulated in Regulation 321 of Regulations for the Navy Part III (Statutory)*
- d) MCPOs in the last year of service will be considered for the grant of Honorary Commission for two chances only as per the applicable provisions.*
- e) MCPOs of the Aviation Branch will be allowed the weightage of either Squadron Service or the Sea Service whichever is more. The squadrons/flights will also include those, which are with Coast Guard. However, time served in Naval Aircraft Yard will not be counted as sea time as their counterparts do*

not get such privilege during their time served in Naval Dockyard.

*f) MCPOs will be considered for grant of Honorary Commission where "Unblemished record of Service" is maintained throughout the service."
(emphasis supplied)*

26. Para 4(f) of the Navy Order 25/2011 clearly stipulates that MCPOs will be considered for the grant of Honorary Commission where 'Unblemished record of Service' is maintained throughout the service.

27. It is not in dispute that the applicants in both the OAs have maintained a 'Very Good' track record throughout the service and the respective Commanding Officer had recommended the case of both the applicants for the award of the rank of Honorary Sub Lieutenant, however, it is pertinent to note that the applicants were involved in a disciplinary case and the trial was conducted on 21.04.2016 for the alleged offence committed between 2009 and 2011, which apparently is in conflict and contrary to clause (f) of the Guidelines as enumerated in Para 4 of the Navy Order 25/2011, i.e., **"Unblemished record of Service"**.

28. The learned counsel for the applicants has placed reliance on the Order dated 09.07.2015 in the case of **Hony**

SLT Vinod Kumar v. UOI & Ors. [OA No. 542/2014] of this Tribunal, wherein it was held that non-punitive punishments have no effect upon the unblemished record of the individual in question. Using this as an armor, the learned counsel for the applicants submitted that the respective Boards for Honorary rank ought to have considered the name of the applicants for granting them the said benefit, irrespective of the result of the summary trial faced by the respective applicants.

29. The reliance as placed by the learned counsel for the applicants on the Order dated 09.07.2015 in OA 542/2014 of this Tribunal is misplaced in the manner that the applicant in OA 542/2014 got clearance from vigilance and thereafter the applicant was conferred the Honorary rank of Sub Lieutenant.

30. In the present case, the applicants neither got the clearance nor were they conferred the Honorary Rank of Sub Lieutenant, therefore, facts and circumstances in the instant case cannot be equated with the case of **Hony. SLT Vinod Kumar (supra)**.

31. Upon perusal of the Honorary Commission Board Proceedings dated 26.01.2017 and 26.01.2021, in respect of the applicant in OA 1295/2017 and OA 1371/2021 respectively, it is observed that both the applicants were not recommended for the award of Honorary Commission in view of pending disciplinary actions, i.e., award of punishment No. 12 and 14, which tantamount to not having an 'unblemished record' of service for the award of honorary commission.

32. From the pleadings on record, it is *prima facie* observed that both the applicants were awarded the punishment of 'Stoppage of leave for 14 days' (Punishment No. 12) and 'Admonition' (Punishment No. 14) which apparently is in contravention of *clause (f) Para 4* of the Navy Order 25/2011. The 'Guidelines' as enumerated in Para 4 of the Navy Order 25/2011 needs to be fulfilled in its entirety and cannot be read in isolation to each other, hence, even if the service record of the applicants for past 20 years is said to be 'Very Good', the fact that the applicants were involved in a disciplinary case and were awarded two punishments cannot be negated in making the overall consideration of their case for the grant of the award of the rank of Hony. Sub. Lt. ✓

CONCLUSION

33. In view of the above analysis, both the applicants cannot be construed to be having an 'unblemished record' and hence do not meet the requisite criteria for the award of the rank of Honorary Sub. Lt. Thus, we find no merit in the contention which is put forth by the learned counsel for the applicants.

34. We are of the considered view that the present case of the applicants suffers with infirmity both on the grounds of law and equity and hence, the relief as claimed by the learned counsel for the applicants cannot be granted.

35. Both the OAs are dismissed being devoid of merit.

36. No order as to costs. Pending Miscellaneous Application(s), if any, stands disposed off accordingly.

Pronounced in the open court on this 17th day of October, 2025.

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE NANDITA DUBEY]
MEMBER (J)

/PRGx/