

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

OA 1397/2023

Col Praveen Kumar Singh_ ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate

WITH

OA 1552/2023

Col Rahul Trivedi ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Gp Capt Karan Singh Bhati, Sr. CGSC

WITH

OA 1656/2023

Col M Balaji ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. V. Pattabhi Ram, Advocate

CORAM :

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

ORDER

These applications have been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicants bearing the substantive ranks of Colonel in the Indian Army, being aggrieved by their

declaration of non-promotion to the rank of Brigadier despite their empanelment.

2. Noting the fact that while the issue is similar for all the three OAs, the factual matrix pertaining to medical conditions is distinct, and thus, we take up these OAs for consideration together, yet decide separately on the issue based on facts of each case.

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3. The Applicant, a serving Army Officer in the Corps of Electronics and Mechanical Engineers (EME), and was commissioned on 09.12.1995 and holds the substantive rank of Colonel. The applicant was considered for promotion to the select rank of Brigadier by the relevant Selection Board and was Empanelled, thereby satisfying the criteria of 'merit cum seniority'. The physical promotion, however, remained contingent upon satisfying medical fitness standards due to the Applicant being in a Low Medical Category (LMC).

4. The applicant's medical classification is recorded as SHAPE-2Z with a COPE classification C202P2E2, attributed to disabilities including Chronic Kidney Disease (CKD), Primary Hypertension, and Nephrotic Syndrome MCD. The Applicant was first screened by No. 2 SRMB in July 2021 (as per MS Branch Policy dated 31.03.2015) to determine his suitability for physical promotion and stream of employment. The SRMB graded the Applicant 'Z (unfit)', signifying unfitness for physical promotion to the next rank on medical grounds only.

5. Subsequently, in deference to the Hon'ble Armed Forces Tribunal (AFT) order dated 21.09.2022 in batch cases of *Lt Col Karan Mehta & Ors. [AFT PB; OA 1607/2021]*, the Applicant was re-considered by No 2 SRMB in December 2022, where the grading of 'Z (unfit)' was re-confirmed. Aggrieved by the recurrent finding of 'Z (unfit)' by the Special Review Medical Board, which resulted in the denial of his physical promotion to the select rank of Brigadier despite having been duly empanelled, the Applicant has approached this Tribunal challenging the application and arbitrary nature of the medical fitness policy.

6. It is the case of the applicant that the Special Review Medical Board (SRMB) requirement undermines the merit-based empanelment. Despite being in Low Medical Category (LMC) SHAPE-2Z, with COPE classification C202P2E2 due to chronic health conditions (Chronic Kidney Disease, Primary Hypertension), the applicant was screened by No. 2 SRMB in July 2021 and December 2022, receiving a grading of 'Z (unfit)' in both these instances — thereby, rendering him ineligible for physical promotion on medical grounds alone. The underlying SRMB policy treats COPE-2 as an absolute bar, arbitrarily restricting the applicant's promotion despite the established "merit cum seniority" principle.

7. It is contended by the applicant that the requirement for SRMB screening of officers empanelled with LMC and COPE-2 is highly prejudicial; and that the SRMB, instead of merely deciding the

employment stream suited to the officer's abilities within the empanelled rank, is effectively assigned an exclusionary function that negates the merit-based selection process. It is stressed that the same is contrary to the essence of the SRMB, which should only recommend suitable stream (Command or Staff/ERE/Instructional) for the empanelled rank, rather than overrule Selection Board findings.

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8. The applicant was commissioned into the Corps of Engineers as a Lieutenant on 11.12.1993 and presently holds the substantive rank of Colonel. He has more than 30 years of service and has fulfilled the mandatory military courses requisite for consideration to the select rank of Brigadier. He was considered for promotion to the select rank of Brigadier by No. 2 Selection Board in July 2020 (as a 'Fresh Case') and was Empanelled. However, the physical promotion was made subject to medical review due to his Low Medical Category (LMC) P2(P) COPE-2 on account of disabilities, including Beta Thalassemia Trait and Coronary Artery Disease (Post-PCI).

9. The applicant was first screened by the No. 2 Special Review Medical Board (SRMB) in July 2021 as per the extant policy, i.e. the MS Branch Policy dated 31.03.2015, in order to determine his suitability for physical promotion and stream of employment. On this occasion, the SRMB graded him 'Z (unfit)', indicating unfitness for physical promotion to the next rank on medical grounds only.

10. On a challenge made before this Tribunal, in *Lt Col Karan Mehta & Ors (supra)*, this Tribunal passed several directions, vide its order dated 21.09.2022, in compliance of which, the applicant was re-considered by No. 2 SRMB in December 2022. The SRMB, upon review, maintained the grading of 'Z' for the applicant, i.e. unfit for physical promotion to the next rank on medical grounds only.

11. Aggrieved by the reconfirmation of his non-promotion and the impugned order dated 20.04.2023, the applicant has filed the present Original Application challenging the grading of 'Z (unfit)' awarded by the Special Review Medical Board and the resultant non-promotion to the rank of Brigadier.

12. It is the applicant's grievance that although the initial selection correctly delinked medical category from the merit-based selection process, the subsequent requirement for a Special Review Medical Board (SRMB) effectively nullifies the merit-based decision of the Selection Board.

13. It is the applicant's case that the SRMB's role should be confined to identifying the most suitable employment stream within the empanelled rank (e.g., Staff/ERE/Instructional), rather than to overturn the selection made by the No. 2 Selection Board and that the MS Branch Policy dated 31.03.2015, which dictates the SRMB proceedings, is being applied in a manner that effectively gives the SRMB an overriding authority over the Selection Board, which is contrary to the spirit of the Regulations for the Army and the principle of merit-cum-seniority.

14. Placing reliance on Para 67(A)(b) of the Regulations for the Army (Revised Edition 1987), learned counsel for the applicant contends that the provision allowing for consideration of an officer with permanent classification of S1H2A1P1E2 (a type of LMC) for promotion is not a rule but an exception, provided conditions such as promotion being in the public interest and the officer being capable of performing normal active service duties are fulfilled. The applicant, despite his current medical classification of LMC P2(P) COPE-2 for Beta Thalassemia Trait and Coronary Artery Disease, is well-stabilized and challenges the finding of 'Z (unfit)' as a disproportionate exercise of power, particularly since the SRMB also aims to identify the officer's stream of employment, which points to the possibility of suitable assignment despite the LMC.

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15. The Applicant, an Army Officer of the Corps of Electronics and Mechanical Engineers (EME), was commissioned on 09.12.1995 and holds the substantive rank of Colonel. The Applicant was duly considered for promotion to the select rank of Brigadier by the relevant Selection Board and was 'Empanelled' by No. 2 SB. However, the physical promotion was made contingent upon satisfying the prescribed medical fitness standards, as the Applicant was categorized as having a Low Medical Category (LMC).

16. The Applicant's medical classification is SHAPE-2Z with a COPE classification C202P2E2, stemming from disabilities which include

Chronic Kidney Disease (CKD), Primary Hypertension, and Nephrotic Syndrome MCD. As an officer with a COPE coding-2 in the LMC classification, the Applicant was mandated to be screened by a Special Review Medical Board (SRMB).

17. The Applicant was screened by No. 2 SRMB in July 2021 to assess his suitability for physical promotion and potential stream of employment. The SRMB graded the Applicant 'Z (unfit)', signifying unfitness for physical promotion to the next rank on medical grounds only. Subsequently, in adherence to the order dated 21.09.2022 in *Lt Col Karan Mehta (supra)* & batch cases, the Applicant was subjected to a re-consideration by No. 2 SRMB in December 2022, where the grading of 'Z (unfit)' was re-confirmed.

18. Aggrieved by the recurrent finding of 'Z (unfit)' by the Special Review Medical Board (SRMB), which resulted in the denial of his physical promotion to the select rank of Brigadier despite having been duly empanelled, the Applicant has preferred the present Original Application challenging the grading and the consequent non-promotion.

19. Similar to the other applicants, it is the case of the applicant, that he has an unblemished and outstanding record of service and was 'Empanelled' for promotion to the rank of Brigadier. This empanelment confirms that the applicant's merit and seniority were duly recognized by the Selection Board and that although the initial selection correctly delinked medical category from the merit-based process, the subsequent

requirement for a Special Review Medical Board (SRMB) effectively nullifies the merit-based decision.

20. It is contended by the applicant that the policy governing SRMB, which restricts physical promotion based on a dynamic medical factor like COPE coding-2, treats a specified exception as an absolute rule of exclusion, thereby arbitrarily restricting the promotion despite the merit-based empanelment, and that mandating an SRMB screening for empanelled officers with LMC and COPE-2 coding is highly prejudicial. The SRMB is held to decide upon the officer's suitability for physical promotion and the stream of employment (Command or Staff/ERE/Instructional). The grading of 'Z (Unfit)' prevents physical promotion. The SRMB's role should be confined to identifying the most suitable employment stream within the empanelled rank, thereby utilizing the officer's merit in a compatible role, rather than overturning the selection made by the No. 2 Selection Board.

Consolidated Submissions on Behalf of the Respondents

21. *Per contra*, it is the case of the respondents that the promotion of an officer to select ranks in the Indian Army, through Selection Boards, follows the principle of 'merit cum seniority' but the medical fitness for promotion to higher ranks is an important facet of military service, considering the nature of duties performed for the defence of the country's sovereignty. The requirement of medical fitness is applied uniformly across all Arms and Services, as all personnel of the Indian Army are duty-bound to bear arms and defend the country. The

employer has the right to lay down acceptable health or medical standards, and no employee has a right to claim promotion without meeting such laid down acceptable medical criteria.

22. In this factual background, learned counsel for the respondents highlight that the Regulations for the Army (Revised Edition 1987) lay down the broad guidelines for acceptable medical categories. Para 67(A)(b) stipulates that substantive promotion by selection to the rank of Lt Col and above will be subject to the medical fitness of the officer concerned for active service. The policy letter dated 14.12.2012 on the 'System of Medical Classification of Army Officers and Consequent Eligibility for Promotion to Select Ranks,' read with MS Branch Policy No. 04548/MS Policy dated 07.09.2016, outlines the acceptable medical criteria for the assumption of higher select rank.

23. It is next contended by the respondents that the applicants being in Low Medical Category (LMC) P2(P) COPE-2, were required to be screened by a Special Review Medical Board (SRMB) which is in line with the uniform policy letters and is consistent with the broad guidelines contained in Para 67(A)(b) of the Regulations for the Army. While an officer is eligible for promotion in P2 medical category only if his/her COPE coding is '0' or '1', an officer in permanent LMC A2, P2, or H2E2 with COPE coding-2 is mandatorily required to be screened by SRMB.

24. Expanding further, it is submitted by the respondents that the applicants were screened by No. 2 SRMB as per MS Branch Policy

dated 31.03.2015 to decide upon his suitability for physical promotion and stream of employment. The No. 2 SRMB graded them 'Z (unfit)', meaning unfit for physical promotion to the next rank on medical grounds only. Subsequently, in deference to the Hon'ble AFT order dated 21.09.2022 in batch cases of *Karan Mehta vs UoI and Others (supra)*, they were again considered by No. 2 SRMB in December 2022 and was again graded 'Z'.

25. It is contended by the respondents that the purpose of the SRMB is to determine whether the promotion of an LMC officer would be in the organizational interest and to ascertain the suitability of the empanelled officer for physical promotion. The SRMB is composed of the Selection Board members, but also includes a Medical Specialist and a Surgical Specialist in an advisory capacity. The SRMB's final grading of 'Z (Unfit)' is one of the definite gradings the Board can award and implies the officer is Unfit for physical promotion to the next rank on medical grounds only.

Consideration

26. We have considered the submissions of both the parties at length and have studied the proceedings of No. 2 Special Review Medical Board in detail, wherein after, the limited question for our consideration is whether the applicants are entitled for promotion to the rank of Brigadier, as denied to them on the medical grounds vis-à-vis the order of this Tribunal in *Lt Col Karan Mehta & Ors. (supra)*?

27. Before advertng to the proceedings of No. 2 SRMB, we find it pertinent to refer to the order dated 21.09.2022 of this Tribunal in *Lt Col Karan Mehta & Ors (supra)*, wherein the applicants have been party at Sl. No. 14, 11 and 16 respectively, and the legality of SRMB has been considered extensively.

28. Noting that the issue under question has been addressed to a larger extent by this Tribunal, we find it essential to refer to Para 17 to Para 31 of the order dated 21.09.2022, reproduced as under:

17. Having heard both the parties at length, the only issue that is required to be decided is whether the applicants here have been considered fairly by the No 3 and No 2 SRMB held in Jun/Jul 2021 based on the current policy in vogue. Based on the orders of this Court, the Respondents have produced the Board Proceedings of both these Boards and the connected files. We therefore examine the following :-

(a) Statutory Provisions.

(b) Policy on SRMB.

(c) Conduct of SRMB

(d) Conclusion

Statutory Provisions

18. The issue of promotion of officers is governed by Para 67 of the Regulations for the Army (Volume 1) Revised Edition 1987 which states the following:

"67. Substantive Promotion by Selection.- (A) All officers (except officers of Military Nursing Service, Army Medical Corps, Army Medical Corps (Non-Technical), Army Dental Corps, Remount and Veterinary Corps, Military Farms, Jag's Department Special List and officers permanently seconded to Research & Development and Inspection Organisations): -

(a) XXX XXX XXX

(b) Substantive promotion by selection to the rank of Lt. Col and above will be subject to the medical fitness of the officer concerned for active service and the permanent medical classification of an officer not being other than S1 H1 A1 P1 E1, S1 H2A1 P1 E1 or S1 H1 A1 P1 E2. An officer whose permanent classification is S1 H1 A2 P1 E1, S1 H1 A1 P2E1 or S1 H2A1 P1 E2 may also be considered for promotion provided the following conditions are fulfilled:-

(i) Such promotion would be in the public interest.

(ii) In the opinion of a Medical Board:-

(aa) the officer is capable of performing the normal active service duties of the rank to which he is, being promoted, in his present medical category.

(ab) any defect, disability, or disease, from which the officer is suffering, is not likely to be aggravated by service conditions, provided he is employed on duties compatible with this medical category and within the restrictions placed by the Board."

Policy on SRMB

19. The policy of promotion of LMC officers to select rank has been laid down by MS Branch from time to time. We have examined the files/ records pertaining to policy on SRMB submitted by the Respondents. In recent times, the letter No 04502/MS Policy dated 17.11.2005 laid down the policy on 'Promotion to the Acting Rank of Col and above: Officers in Low Medical Category. This was followed by letter dated 07.05.2007 laying down the policy on conduct of SRMB and laid down the aim, documents to be placed before the SB, composition, eligibility criteria for consideration by SRMB, grading and frequency. This letter of 07.05.2007 also stipulated the medical status of LMC officers who would be eligible for promotion to acting rank of Col without going through SRMB. The grading process entailed the SRMB grading the officer as 'Fit' or 'Unfit' for physical promotion to next higher rank. An officer found fit was to be further recommended as fit for 'Command' or, 'Staff/ERE/Instructional'. The letter of 17.11.2005 was then amended vide letter dated 24.08.2009 where in Para 4 & 5 were replaced and new paras 6 & 7 added which included consideration of Cols by SRMB. MS Branch then vide its letter dated 22.06.2010 further amended the letter dated 07.05.2007 and replaced para 6 & 7 pertaining to the medical category and employment index based on which officers would be now eligible for consideration by SRMB. Vide letter dated 02.09.2011, the MS Branch issued the policy on 'Command by Officers placed in LMC', where in the acceptable medical category for placement in command appointments were laid down.

20. In Nov 2011, AO 9/2011/DGMS on Health Care System in Army was issued which laid down the instructions for medical examination and classification of serving officers. The new OA also revised the medical classification of officers given earlier in 1/2004/DGMS and replaced the Employment Management Index (F1A/F1B/F2/F3/F4) with an overall COPE Coding of 0/1/2. Accordingly, the letter No 04548/MS Policy dated 14.12.2012 (Annexure A-9), 'System of Medical Classification of Army officers and Consequent Eligibility for Promotion to Select Ranks' was issued indicating the overall COPE coding equivalence to the erstwhile

Employment Management Index. Further letter on SRMB dated 18.09.2012 was issued superseding earlier letters dated 07.05.2007 and 22.06.2010. The MS Branch then examined the feasibility of extending the SRMB concept to higher select ranks, with inputs sought from the Commands, and it was decided to extend the SRMB concept to the rank of Brig (No 2 SB). Accordingly, letter dated 31.03.2015 (Annexure A-2) was issued extending SRMB to Brigs.

21. *As seen from the files, medical category is not a criterion for empanelment, but is one of the criteria for physical promotion. Once an officer is empanelled, his professional competence for the job is already proven. While it is undisputable that LMC officers who cannot optimally discharge their duties owing to their medical condition are not promoted, the organisation opined that with suitable relaxation of medical conditions, it would be possible for the organisation to avail the services of such competent officers, who can be employed as per their medical restriction. This would not only reinforce the concept of merit with those being empanelled becoming eligible for promotion, but would improve the promotion prospects and thus enhance motivation. At the heart of the SRMB concept is the need to optimally employ professionally competent LMC officers in select ranks taking into consideration their medical and employment restrictions. Thus the policy now entails empanelled officers in certain medical category with COPE Coding-02 being considered for physical promotion based on their individual employment restrictions. To this end, the SRMB will grade officers as fit/ unfit; and if fit recommend for command or staff/ERE/instructional. Thus, there is adequate latitude to find employment for an officer under consideration of SRMB based on his employment restrictions. Relevant extracts of letters dated 14.12.2012 and 31.03.2015 are reproduced below.*

Extracts of letter dated 14.12.2012. The relevant issues from this letter are extracted below:-

5. Employment Restrictions. Over and above medical classification of an officer in terms of SHAPE factors, related functional capacity in terms of numerals 1 to 5 and indication of multiple medical disabilities in terms of alphabets x to z, Employment Restrictions indicate fitness of the officer for military employment. Erstwhile concept of Employment Restrictions in terms of Employment Management Indices of F1A/F1B/F2/F3/F4, has been replaced in revised AO 9/2011/OGMS with the COPE Coding System as under:

- (a) C - Climate and terrain restrictions.*
- (b) O - Degree of medical Observation required.*
- (c) P - Physical capability limitation.*
- (d) E - Exclusive limitations as per Disease.*

6 to 8 xxxxx

9. Promotion to Select Ranks of Colonel and Above.

Subject to meeting all other laid down conditions, officers in following permanent medical categories are eligible for promotion to select ranks of Colonel and above:-

Ser No.	Statement of Medical Classification	Implications
(a)	Overall medical classification of SHAPE-1B, and SHAPE-1 irrespective of number of medical disabilities, i.e. x, y, z or COPE Coding.	Promotable medical categories, irrespective of COPE Coding:- (a) SHAPE-1 (b) SHAPE-1B
(b)	Overall medical classification of SHAPE-2 (irrespective of number of medical disabilities, i.e. x, y, z), With disability profile H2 or P2 (for dental condition only) or E2, which will be considered at par with SHAPE-1 for promotion purposes, irrespective of the overall COPE Coding.	Promotable medical categories, irrespective of COPE Coding :- (a) S1H2A1P1E1 (b) S1H1A1P2E1 (dental only) (c) S1H1A1P1E2
(c)	Overall medical classification of SHAPE-2 (irrespective of number of medical disabilities, i.e. x, y, z), with disability profile A2 or P2 (other than for dental condition only) or H2E2, if overall COPE Coding is COPE-0 or COPE-1	Promotable medical categories, only if overall COPE Coding is COPE-0 or COPE -1:- (a) S1H1A2P1E1 (b) S1H1A1P2E1 (other than dental) (c) S1H2A1P1E2

13. Special Review Medical Board. Only for promotion to the select rank of Colonel, officers who are in permanent low medical classifications of S1H1A2P1E1, S1H1A1P2E1 (other than for dental condition) or S1H2A1P1E2 with overall COPE coding of COPE-2, will be considered by Special Review Medical Board for physical promotion to the rank of Colonel, subject to the following:-

- (a) They are approved for promotion to the rank of Colonel on initial assessment by No 3 Selection Board,
(b) It is possible to employ them in suitable appointments in the rank of Colonel, commensurate with their low medical classification."

Extracts of letter dated 31.03.2015. The relevant issues from this letter are extracted below:-

"General

2. The extant policy on SRMB was enunciated vide MS Branch letter at reference. As per the extant policy, officers in permanent low medical classification SIH1A2P1E1 or SIH1A1P2E1 (less dental) or SIH2A1P1E2, with employment restriction of COPE-2 and empanelled by No 3 Selection Board are screened by SRMB which decides upon their suitability for physical promotion as well as stream for their employment in the rank of Colonel, viz, Command or Staff/ERE/Instructional.

3. The extant policy has been reviewed and the concept of SRMB has been extended upto the rank of Brigadier.

4. XXX XXX XXX

5. Broad Concept:

(a) Officers empanelled by No 3/No 2 Selection Board and in permanent medical classification SIH1A2P1E1 or SIH1A1P2E1 (less dental) or SIH2A1P1E2, with employment restriction of COPE-2, will be eligible for promotion to the rank of Colonel/Brigadier.

(b) Such officers will be screened by SRMB to decide upon their suitability for physical promotion to the rank of Colonel/Brigadier as well as stream for their employment, viz, Command or Staff/ERE/Instructional.

(c) An officer will be screened by separate SRMB for each level, that is, Colonel and Brigadier. Only one SRMB consideration will be admissible at any one level for an eligible medical classification. The decision of SRMB will be final and there will be no re-consideration.

(d) Officers approved for Command Stream will be eligible to tenant Criteria/Part Criteria assignments as well as Non Criteria appointments. Officers approved for Staff/ERE/Instructional Stream will be eligible to tenant Non Criteria appointments only.

6 to 11 xxx xxx xxx

Conduct of SRMB

12. Composition of SRMB. Composition of the SRMB will be same as that of No 2/No 3 Selection Board. In addition, it will include a medical specialist and a surgical specialist, as nominated by DGMS (Army), in the advisory capacity.

13. Frequency of the SRMB. SRMB will be conducted along with scheduled No 2/No 3 Selection Board.

14. Actions by Military Secretary's Branch. On declassification of the selection board results, the concerned Controlling Group at Military Secretary's Branch will identify eligible empanelled officers who are required to be screened by the SRMB. The Controlling Groups will also identify officers who have been medically downgraded while holding the rank of Colonel/Brigadier and need to be screened by SRMB to ascertain

their suitability for tenantry Criteria/Part Criteria appointments in the present rank. The concerned Controlling Group will obtain the under-mentioned documents and forward the same to MS 5 for perusal by SRMB:-

(a) Special Report initiated by IO and RO, covering performance of the officer in his present appointment. Specimen copy of the Special Report is given at Appendix to this letter.

(b) Latest Medical Board proceedings.

15. Consideration by the Board. The Board of Officers will consider all relevant aspects and submit its recommendations from medical perspective on suitability of the officer for physical promotion and his employment in the relevant rank. The board will recommend one of the following definite gradings to each officer under consideration:-

(a) B (Fit) Command. Fit for designated Criteria/Part Criteria appointments as also Staff/ERE/Instructional assignments.

(b) B(Fit) Staff/ ERE/ Instructional. Fit for employment on Staff / ERE Instructional appointments, that is, Non Criteria appointments only. The officer is not fit to tenantry any Criteria/Part Criteria appointment.

(c) Z {Unfit}. Unfit for physical promotion to the next rank on medical grounds only. This grading, however, will not be awarded to an officer who has been medically downgraded while holding the rank of Colonel/Brigadier and is being screened by SRMB to decide upon his employment in the same rank, under the circumstances as covered at Paragraph 8(b) and 11(b) above.

16. Approving Authority. SRMB proceedings will be approved by the Military Secretary. In case SRMB alters approval for promotion already recommended by No 3/No 2 Selection Board, the board proceedings will then be approved by COAS/MOD, as applicable."

22 to 23.

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24. *We have examined the proceedings of No 3 SRMB Jun 2021 and No 2 SRMB Jul 2021. The No 3 SRMB was held on 08.06.2021; was chaired by a Corps Cdr (Lt Gen) with four Maj Gens as members, two Medical Officers in attendance in advisory capacity and the Brig MS(B) as the Secretary. The Board considered a total of 15 officers of whom one officer was found fit for command, three for staff/ERE/instructional and 11 were found unfit. We find that the proceedings have the details of medical classification with disability and date of last medical board, the employment restrictions imposed by the last medical board and the details of the regular SB in which each officer had been empanelled to the rank of Col, summary of grading by members and the final grading awarded. The Proceedings indicate that the Board was briefed about the Advisory dated 07.01.2021 issued by DMA on*

Empanelment of Offrs in LMC with severe Employment Restrictions'. The Board proceedings were then forwarded to COAS along with a copy of the Advisory and was approved by COAS on 10.06.20121. However, the proceedings have not endorsed any reason why each officer had been found unfit for command and also found unfit for staff/ERE/instructional appointments.

25. *The No 2 SRMB was held on 13.07.20121; chaired by an Army Cdr (Lt Gen) with two Lt Gens and two Maj Gens as members and two Medical Officers in attendance in advisory capacity and with Addl MS(B) as the secretary. We find that the proceedings have similar details as in the case of No 3 SRMB, summary of grading by members and the final grading.. The Board proceedings indicate the grading by each member and the summarised final grading. Here too, the proceedings have not endorsed any reason why each officer had been found unfit for command/staff/ERE/instructional appointments. The Board Proceedings were then approved by the COAS and the list of those found unfit by the SRMB was then forwarded to DMA for the approval of the competent authority since it entailed a change in empanelment status from being declared FIT by the regular No 2 Board and had now been declared unfit for physical promotion. The Board proceedings were approved by COAS on 05.08.2021 and by the Competent Authority on 01.09.2021.*

26. *It is also seen from the proceedings that an MoD/DMA advisory dated 07.01.2021 on 'Advisory on Empanelment of Officers in Low Medical Category with Severe Employment Restrictions' was also brought to the notice of the SRMB. The letter states that keeping in view the overall operational requirement of the IA, where the employment restrictions of LMC officers are likely to hamper their performance, due cognisance needs to be taken of such employment restrictions when such officers are considered for promotion. While the necessity of ensuring medical fit officers in all echelons is undisputable, in view of the overall results of the No2/3 SRMBs under consideration here, it is our considered opinion that this advisory perhaps has weighed rather disproportionately heavily on the Board Members in deciding the possible employment of each officer based on their individual employment restrictions due to their medical category.*

27. *As per the current policy, SRMBs are ONLY applicable to No 3 and No 2 SBs which consider eligible officers for empanelment to the select ranks of Cols and Brig. In the case of No1 SB and Special SB, in the absence of SRMB, officers with only promotable medical category are empanelled and the details of medical status, where applicable, are suitably endorsed in the SB proceedings as seen by this Court while examining OA 2637/2021 Maj Gen Anil Kumar Vs UoI. If indeed, in view of the Advisory of MoD/DMA dated 07.01.2021, or for any other consideration, if the SRMB/ Conduct of SB policies need revision/ amendment, then such amendment must first be promulgated prior to arbitrary implementation.*

28. Moreover, since the proceedings have not endorsed any reason as to why these officers have been found unfit for command/staff/ERE/instructional appointments, it is not possible to fathom, why officers with good performance on courses, requisite staff and instructional experience have not even been found fit for staff/ ERE/ instructional appointments. From the records we also find that there are no laid down guidelines how a specific medical condition and its restrictions are to be interpreted and applied.

29. As seen from the two policy letters of 14.12.2012 and 31.03.2015, at the heart of the SRMB concept is the need to optimally employ professionally competent LMC officers in select ranks taking into consideration their medical and employment restrictions. To this end, SRMB policy envisages empanelled officers in certain medical category with COPE Coding-02 being considered for physical promotion based on their individual employment restrictions. Needless to say that till the SRMBs in 2020, this policy has been implemented in letter and spirit as borne out by the fact that out of a total of 159 officers who were empanelled by the regular SBs and were considered by the SRMB, 152 officers were found fit, of which 47 were found fit for 'Comd' and 112 officers being found fit for Staff/ ERE/ Instructional appointments.

Conclusion

30. Having examined all the relevant details pertaining to the case we conclude the following:-

(a) The aim of the SRMB concept is to optimally employ professionally competent LMC officers in select ranks taking into consideration their medical and employment restrictions.

(b) The policy on promotion of LMC officers to select rank has been laid down by MS Branch from time to time, and the current policies in vogue are enshrined in the letters dated 14.12.2012 and 31.03.2015.

(c) The SRMB policy envisages empanelled officers in certain medical category with COPE Coding-02 being considered for physical promotion based on their individual employment restrictions.

(d) The number of officers found fit by SRMB till 2020 indicates that the policy has been implemented in letter and spirit. However, the implementation since then has been skewed.

(e) While the SRMB have been conducted as per the policy, the Proceedings of both No. 2 & 3 SRMB have not endorsed any reason why an officer had been found unfit for command and also found unfit for staff/ERE/instructional appointments. In fact, there are No reasons or justification endorsed anywhere in the Proceedings, except for summary of grading by various members and the final result. (f) If the SRMB policy needs revision/ amendment, in view of the Advisory of MoD/DMA dated

07.01.2021, or for any other consideration, then such amendment must first be promulgated prior to arbitrary implementation.

31. In view of the above considerations, we quash the results of No 3 SRMB Jun 2021 and No 2 SRMB Jul 2021 limited to the applicants here and direct the respondents to:

(a) Reconvene No 2 and No 3 SRMB and reconsider the applicants here afresh as per the ratio of consideration till 2020 within two months of this order.

(b) Issue necessary instructions that the SRMB will record detailed reasons as to why an officer is unfit for command/ staff/ ERE/ instructional appointments.

(c) Ensure that any modification in the current SRMB policy be only implemented after the existing policy is formally amended after due deliberations.

(d) Formulate and lay down guidelines how generic medical conditions and its restrictions are to be interpreted and applied to classify officers being considered by SRMB as fit/ unfit.”

29. From a detailed analysis of the aforesaid order, we find that the Tribunal's analysis pinpointed a critical lack of transparency and documented rationale as a major flaw in the impugned SRMB proceedings. The proceedings provided no endorsed reasons or justification for declaring the officers unfit for Command or Staff/ERE/Instructional appointments, making it impossible for the Tribunal to fathom the decision-making process. A central intention of the directions, therefore, was to mandate accountability by requiring the SRMB to record detailed reasons for any officer declared unfit for command, staff, ERE, or instructional roles. This measure aims to prevent future arbitrary decisions and ensures that the process meets the minimum standard of a reasoned order.

30. A further crucial intention behind the directions was to check the arbitrary, unpromulgated implementation of new policy considerations. The analysis suggested that an MoD/DMA Advisory dated 07.01.2021, regarding the empanelment of LMC officers with severe employment restrictions, might have been "disproportionately heavily" factored into the Board's decisions, leading to the high number of officers found unfit.

31. We note that this Tribunal analyzed the need for objective standardization in applying medical restrictions, wherein it has been observed that the records revealed a lack of laid-down guidelines on how specific medical conditions (like Primary Hypertension or PIVD-L3/L4/L5, for which officers were previously found fit) and their restrictions should be interpreted and applied by the SRMB. This is intended to introduce a consistent, objective framework to classify officers as fit or unfit, thus eliminating the "cherry picking" assertion made by the applicants' counsel, which was based on officers with similar ailments being found fit in previous SRMBs but unfit in the 2021 SRMB.

32. It in in this background, we now proceed to examine the No.2 SRMB conducted by the Respondents in compliance of the directions issued by this Tribunal in aforesaid case of *Lt Col Karan Mehta & Ors. (supra)*, with respect to the applicants one by one.

Col Praveen Kumar Singh

33. On a perusal of No. 2 SRMB, it is pertinent to note that the No. 2 SRMB was chaired by an officer of the rank of Lieutenant General and

GOC-in-C. The Board comprised two Lieutenant Generals and two Major Generals. In addition to these members, two medical officers were also part of the No. 2 SRMB held on 15.12.2022, one being a Senior Advisor in Medicine and Neurology and the other a Senior Advisor in Surgery and Neurosurgery from the Army Hospital (R&R), New Delhi.

34. The applicant in this case was placed in the medical category S1H1A1P2 (PE1) due to a diagnosis of **Polymorphic Ventricular Tachycardia (PVTC)**. The last medical board for the applicant was held on 17.10.2020, and his initial medical category was awarded on 25.09.2011. During the last review, the applicant was found to have certain employability restrictions, which were imposed as follows:

- 1. C2(a)B – Unfit for high-altitude areas (9,000–15,000 ft) and hilly terrain; unfit for extreme cold or hot climates or areas with sub-zero temperatures for more than three months in a year.*
- 2. O2(a) – To be under specific surveillance by a specialist at a Military Hospital or a Civil Hospital where such facilities are available.*
- 3. P2(a) – Unfit for extreme exertion and competitive sports; fit only for sedentary or desk duties.*
- 4. E2(K) – Avoid smoking/alcohol; cardiac exercise only within tolerance limits; yearly follow-up in cardiology OPD.*

35. We observe that the applicant was graded **Unfit for promotion on medical grounds** by all members of the Board. The SRMB, after obtaining the opinion of medical specialists, considered that with the present medical category for Polymorphic Ventricular Tachycardia, the officer is unfit for high-altitude areas, extreme hot/cold climates, and

prolonged severe exertion, and requires periodic specialist surveillance. The surgical specialist further advised that due to the **pacemaker implanted in the officer's heart**, tenures in isolated or remote locations may pose a risk to his life.

36. In view of the medical condition of the officer and organizational interests, the Board considered it appropriate to award the grading of "Unfit" for promotion to the next rank on medical grounds only.

Col Rahul Trivedi

37. A cursory look at the No. 2 SRMB dated 15.12.2022 reveals that the applicant was found to be in low medical category S1H1A1P2 (P&E1) for the diagnosis of **Beta Thalassemia Trait and Coronary Artery Disease (IWMI) – P/PCI2 RCA**, as graded by the last Medical Board held on 05.04.2021. The employability restrictions imposed by the last Medical Board on the applicant are as follows:

1. *C2 – Alpha: Unfit for specific climate/terrain conditions at high altitude (9,000–15,000 ft).*
2. *O2 (a): To be under specific surveillance by a basic specialist at the MH/Civil Hospital where such facility is available.*
3. *T1: Fit for all activities except those involving prolonged extreme conditions.*
4. *E1 (e): Avoid fatty food and undertake regular moderate exercise.*

38. Based on the above observations, although the applicant was held to be *empanelled* for promotion during the No. 2 SB, he was graded **unfit for physical promotion**. The Board recorded its reasons for non-empanelment on the advice of medical specialists, stating that the

applicant due to his current medical category for **Beta Thalassemia Trait** and **Coronary Artery Disease** is unfit for high-altitude areas, cannot undergo prolonged severe exertion, and requires periodic surveillance by specialists.

39. After due deliberation, the Board opined that the applicant's multiple medical conditions would inhibit his ability to perform military duties efficiently in command, staff, or instructional appointments in higher ranks. Therefore, keeping in view the medical interests of the applicant and the overall organizational interest, the Board considered it appropriate to grade the applicant **unfit for physical promotion to the next rank on medical grounds only.**

Col M Balaji

40. In the case of the applicant, the No. 2 SRMB observed that he was placed in the medical category **S1H1A1P2 (Permanent)E1**. Based on the diagnoses of (a) **Coronary Artery Disease (CAD) – IWMI with normal LV function, status post PCI to OM (DES)**, (b) **Primary Hypertension (PHT)**, and (c) **Nephrotic Syndrome – MCD**, as assessed by the last Medical Board held on **12.07.2021**, the applicant was further subjected to certain employability restrictions. The Medical Board categorized him as follows:

1. *C2 – Alpha: Unfit for high-altitude areas (9000–15000 ft).*
2. *O2(a): To be under periodic surveillance by a basic specialist at MH Hospital/Civil Hospital where such facility is available.*
3. *P2(b): Unfit for extreme exertion and competitive sports; fit only for sedentary and desk duties.*

4. *E2(k): To avoid dehydration and nephrotoxic drugs and to maintain lifestyle modifications as advised by the medical specialist.*

41. In consideration of the above medical conditions, the Board graded the applicant **unfit for physical promotion on medical grounds** even though he had been found fit for promotion by the No. 2 Selection Board held in July 2020. The Board further recorded observations, based on the advice of the medical specialist, that in view of the applicant's coronary heart disease, primary hypertension, and nephrotic syndrome, he was unfit for high-altitude areas and unable to undergo prolonged severe exertion. It was also advised that the applicant would require close medical supervision throughout his life. Consequently, the Board opined that the applicant's multiple medical conditions could be aggravated by military duties across various terrains and operational environments. Therefore, in the interest of both the applicant's health and the organization, the Board considered him unfit for physical promotion solely on medical grounds.

42. Before parting, we must not hesitate to reassert the observations of this Tribunal in the case of *Maj Gen Ashok Kumar v. UoI & Ors [AFT PB; OA 919/2023]*, wherein speaking through the same bench, we have observed as under:

28. With respect to the medical criteria prescribed by the Army, we are cognizant that there can be no judicial review of the standards adopted by the Army, unless they are manifestly arbitrary and bear no rational nexus to the objects of the organization. Physical fitness is crucial for securing a place in the Army. While exercising judicial review, the Court must be circumspect on dealing with policies prescribed for the Armed Forces personnel in attaining norms associated with physical and mental fitness.

43. In this background, we must record that this Tribunal, acting as a judicial forum, recognizes its institutional limitations when reviewing specialized technical matters, such as the medical fitness assessments conducted by expert medical boards, which possess the requisite expertise, training, and specialized knowledge concerning complex medical conditions and their implications for an officer's service suitability. The Tribunal's role is not to function as a superior medical authority or to substitute its own judgment for that of the board on the merits of a medical diagnosis or prognosis. To "sit over" these boards and re-evaluate their medical conclusions would be an encroachment on their domain, undermining the very purpose of establishing such specialized bodies and exceeding the scope of judicial review, which is generally confined to legality, procedural fairness, and manifest irrationality.

44. Consequently, the Tribunal must exercise judicial restraint, limiting its scrutiny to determining whether the medical board's decision-making process was fair, unbiased, and compliant with relevant regulations, and whether the conclusions drawn are supported by some medical evidence and do not suffer from any patent illegality or perversity. The detailed, fact-specific assessment of each officer's unique medical complexities and their resulting suitability is a task uniquely suited to the board. The Tribunal's deference acknowledges that the board is *"better capable to assess each officer on their medical suitability,"* thereby preserving the functional integrity and efficiency of

the administrative system while additionally ensuring that fundamental rights are not violated through arbitrary decision-making.

Conclusion

45. On a detailed analysis of aforesaid No. 2 SRMB, we observe that the explicit and detailed reasonings with respect to the applicants, which links the specific medical restrictions to the inability to execute military duties efficiently across all employment streams, satisfies the legal requirement for a reasoned decision. The reconvened No. 2 SRMB proceedings have meticulously documented and articulated the basis for declaring the applicants medically unfit for physical promotion. The directions of this Tribunal in the case of *Lt Col Karan Mehta & Ors. (supra)*, were intended to mandate the recording of **detailed reasons** and to ensure the SRMB's conclusions were directly linked to the applicants' employability restrictions and the overall organizational interest.

46. As evident from the produced documents, we note that the SRMB has fulfilled this requirement by providing a clear nexus between each officer's low medical category, their clinical diagnosis (e.g., pacemaker, multiple organ conditions, CAD), and the resulting inability to perform operational duties in the next rank.

47. Therefore, finding no reason to hold the conduct or conclusions of the No. 2 SRMB as unconstitutional, biased, or arbitrary, we are of the considered opinion that the aforesaid OAs are devoid of merit, and thus, liable to be dismissed.

48. Hence, the tagged OAs 1397/2023, OA 1552/3023 and OA 1656/2023 are dismissed.

49. Pending miscellaneous application(s), if any, are disposed of.

50. No order as to costs.

Pronounced in the open Court on this 2^{ed} day of December, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

Akc