

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

OA 429/2018

Flt Lt Ashik Sageer Applicant
Versus
Union of India and Ors. Respondents

WITH
OA 465/2018, OA 467/2018, OA 430/2018, OA 431/2018

For Applicant : Mr. A.K. Aggarwal, Advocate
For Respondents : Mr. Avdhesh Kumar Singh, Advocate
Mr. Jagdish Chandra, Advocate
Mr. Anil Gautam, Sr. CGSC Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

Hu.
Dated: 17 November, 2025

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant vide the present OA makes the following prayers:-

"A. Declare that the amendment AFI 1/2013 dated 1.7.2013, is not applicable to the AE officers, whose recruitment process had been initiated pursuant to the AFCAT advertisements prior to July 2013, when the amendment AFI 1/2013 [to the AFI 2/73] was introduced.

B. Declare that the reduction in the ante date by one year, only for the 83 AEC, is unconstitutional being discriminatory inasmuch as the 82 AEC has rightly been granted their entitled ante date of 2 years, even though the advertisement (dated Dec

2011) was the same for 82 AEC and the UES candidates of the 83 AEC.

Or alternatively

C. Quash the amendment AFI 1/2013, altogether as unconstitutional being discriminatory to the aeronautical engineering branch officers vis-à-vis their identical counterparts in the Army and Navy.

D. Direct the respondent authorities to restore the applicant's entitled two years' ante date seniority as per the AFI 2/73 as it existed in Jun 2012 when the process of the applicant's recruitment had been initiated, ie. w.e. f. 30.6.2012.

E. Direct the respondent authorities to accordingly regulate the applicant's all time scale promotions viz. to the ranks of Flight Lieutenant, Squadron Leader and Wing Commander. As such, direct that the Flight Lieutenant promotion already granted to the applicant with effect from 30.6.2015 be ante dated to 30.6.2014.

F. Direct the respondent authorities to pay to the applicant the resulting arrears of pay with interest as may be considered appropriate.

G. Award costs of the instant litigation to the applicant.

H. Consider, extend benefit of the order to all the officers of 83, 84 & 85 AEC, who have similarly suffered on account of the impugned retrospective application of the amendment AFI 1/2013.

Facts of the case

2. The applicant is a permanently commissioned officer in the Aeronautical Engineering (AE) branch of the Indian Air Force, having joined directly from civilian life. After being selected through the Air Force Common Admission Test (AFCAT) 2/2012, he joined the 83rd Aeronautical Engineering Course (AEC) at the Air Force Academy on 01 July 2013 and was permanently commissioned on 30 June 2014.

Submissions on behalf of applicant

3. It is the case of the applicant that he is entitled for two years' ante-date seniority, which is firmly rooted in the governing regulations that existed when his career began in Air Force, since **at** the time of the Applicant's recruitment, Air Force Instructions (AFI) 2/73, Para 16, clearly and unequivocally mandated a two years' ante-date seniority for Aeronautical Engineering (AE) Branch officers joining directly from civil life.

4. As per applicant, this ante-date is counted backwards from the date of permanent commission and is explicitly for the purposes of pay, promotion, and seniority, and this provision was essential to maintain inter-service parity with identically qualified Engineering branch officers in the Army and Navy, who also receive a two-year ante-date seniority. This parity, once established by the Central Government's regulations, cannot be arbitrarily disturbed.

5. Relying on the dates, it is submitted by the applicant that he was permanently commissioned on 30.6.2014 and therefore, his entitled ante-date of commission, as per the AFI 2/73, is 30.6.2012. Consequently, his first time-scale promotion to Flight Lieutenant was due on the date of his permanent commission, 30.6.2014.

6. It is the contention of the applicant that the Respondent has, without any legal basis, unilaterally reduced his entitled ante-date from two years to one year by illegally applying a prospective amendment retrospectively, wherein AFI 2/73 was amended by Amendment AFI 1/2013 in July 2013, reducing the ante-date to one year, and crucially, the Amendment was issued with an expressly prospective effect only.

7. It is submitted by the applicant that the Applicant's recruitment process for the 83 AEC was initiated by the AFCAT 2/2012 advertisement dated June 2012, which is prior to July 2013 when the amendment came into effect, and that the terms and conditions of his recruitment, including the two years' ante-date, were thus vested upon him before the amendment came into being, which confirms that the amendment was intended to govern only *future* entrants, not those whose process had already begun.

8. Arguing on the issue of parity, it is submitted by the applicant that the senior course, 82 AEC, which joined in January 2013 just six months before the Applicant, rightly received their two years' ante-date seniority, and there can be no rational basis for denying the same benefit to the 83 AEC, whose recruitment also commenced before the amendment.

9. With respect to the contention of prejudice caused, it is submitted by the applicant that the illegal reduction of one year in the Applicant's service seniority is not a one-time loss; it is a continuing, perpetual, and cumulative adverse effect on his entire career, since this single year loss impacts every promotion including, but not limited to his seniority in the rank of Flight Lieutenant his promotion to Squadron Leader (due 30.6.2018) and his promotion to Wing Commander (due 30.6.2025).

10. Contending that he is deprived of his legitimate financial entitlements from 30.6.2012 and from the entitled date of promotion, 30.6.2014, it is prayed by the applicant that the Applicant's ante-date of commission be restored to 30.6.2012 and his date of promotion to Flight Lieutenant be restored to 30.6.2014 and accordingly revise the Applicant's pay and grant all resulting financial dues with retrospective effect. The Applicant in support of his case has quoted ***Mohd. Rasul Islam & ors. Vs. Gokul Mohan Hazarika & ors*** (2010) 7 SCC 560.

Submissions on behalf of Respondents

11. Per contra, it is submitted by the Respondents that the Applicant is not entitled to two years' ante-date seniority as his case is rightly governed by the amended instruction, as the original AFI 2/73 provided for two years' ante-date seniority,

but the same was amended by Amendment AFI 1/2013, reducing the period to one year.

12. Throwing light on the application of the amendment, it is contended by the Respondents that this amendment AFI 1/2013 was implemented prospectively with effect from 01 July 2013, whereas the Applicant was inducted/physically joined the Air Force Academy for training on 01 July 2013, and since he joined on or after 01 July 2013, the Applicant and all officers inducted from that date are covered by the amended AFI 1/2013 and he was rightly given one year's ante-date seniority from 30 Jun 2013.

13. It is submitted by the Respondents that the applicant's claim that the time of initiation of the recruitment process is relevant, misplaced and is wrong, since, Air Force Instructions, policies, and orders apply only to commissioned officers of the IAF, not to civilian aspirants, and before 01 July 2013 i.e. the date of implementation of the amendment, the applicant was not a commissioned officer and was only a civilian aspirant.

14. It is contended by the Respondents that for the application of policy, the initiation of the recruitment process is irrelevant; only the actual date of joining the IAF has to be considered.

15. With respect to the application of Promissory Estoppel, it is submitted by the Respondents that the advertisement issued by

the IAF for recruitment did not mention 2 year ante-date seniority. The AFCAT advertisement contained only general guidelines for selection, and all terms and conditions of service were neither listed nor can be listed in a recruitment advertisement. Most terms and conditions came into effect once the applicant is inducted in the service, in this case Indian Air Force.

16. It is further argued by the Respondents that since nothing was promised about the two years' ante-date seniority in the advertisement, there is no promissory estoppel against the Respondents

17. Countering the submissions of the applicant on Inter-service discrimination, it is submitted by the respondents that it is specifically denied that there is discrimination or that parity must be maintained amongst the three Armed Forces wings.

18. With respect to the power of Executive to frame policy, it is submitted by the respondents that policy making is executive domain, wherein the Government is authorized to form, change, or amend rules and regulations for its organizations according to the organizational requirements, and the issues pertaining to policy making are exclusively within the purview of the Executive power of the Union and are beyond the scope of judicial review under Section 14 of the AFT Act, 2007

19. It is vehemently contended that the employer is free to change the eligibility/criteria for promotion, and a policy so framed is not expected to remain so forever, and that the courts cannot trammel the powers of the executive in policy making, as has been settled by the Hon'ble Supreme Court that an employee has no right to claim that service rules should be forever the same as when he entered service.

Consideration

20. We have given careful consideration to the arguments advanced by both sides and have thoroughly examined the records, including the original AFI 2/73, the Amendment AFI 1/2013, and the AFCAT advertisement under which the Applicant was selected.

21. We find no divergent view to the fact that the foundational principle governing service conditions, particularly in the Armed Forces, is the Executive's inherent power to formulate, change, and amend policies, and the Hon'ble Supreme Court has consistently upheld the Executive's domain in matters of policy, rules, and regulations affecting conditions of service.

22. We find it pertinent to observe as pointed out by the Respondents in **P.U. Joshi & Ors. v. Accountant General & Ors. [(2003)2SCC632]**, the Supreme Court has specifically affirmed that the State is well within its competency to change the rules

relating to a service and alter or amend the eligibility criteria and other conditions of service as administrative exigencies may necessitate, and that *"There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service."*

23. Thus, in view of the settled position of law, we as Tribunal must, therefore, be highly circumspect in interfering with a policy decision of the Union, particularly one concerning the organizational requirements of the Air Force.

24. In the aforesaid background, while proceeding to examine the contention of the applicant, we find that the Applicant's contention that his right to two years' ante-date seniority was "vested" upon the mere initiation of the recruitment process in June 2012 when AFI 2/73 was in operation is legally untenable.

Firstly, the AFI 2/73 applied to those who were member of the Indian Air Force at that time and not to those who were civilian aspirants and were participating in the process of getting inducted in IAF. *Secondly*, The AFI 2/73 in its original form became non-est once AFI 1/2013 came into existence on 1st July, 2013 and amended the contents of AFI 2/73. Further, it is a matter of administrative practice that any service policy, which in this case is AFI 1/2013, would govern the conditions of the service of Airforce personnel who are in service on or

after the date of its implementation unless specifically given a retrospective effect.

25. The undisputed fact remains that the Applicant was inducted and physically joined the Air Force Academy on 01st July 2013. This date coincides exactly with the date of implementation of the Amended AFI 1/2013. The policy once it comes into effect applies to a 'member of the force' or 'officer,' (*a status the Applicant attained upon induction*). He cannot be governed by a policy or AFI 2/73 which was in the existence at the time he was applying for induction into Airforce. Thus, applicant's contention that AFI 2/73 was in vogue when he applied for AFCAT exam and hence the Amended AFI 1/2013 which came into effect on 1st July, 2013 would not apply in his case even though he formally joined the service on 01st July 2013, is not tenable.

26. The Applicant has attempted to invoke the doctrine of promissory estoppel, arguing that the "rules of the game" were changed midway through the process. However, for this doctrine to apply, there must be a clear and unambiguous promise or representation made by the public authority, which has been violated to the detriment of the affected individual. The reliance placed by the applicant upon the judgment by the Hon'ble Apex Court in ***Mohd. Rasul Islam & ors. Vs. Gokul***

Mohan Hazarika & ors (2010) 7 SCC 560 wherein Para 38 of the judgement says, “*since the law has been well settled that the process of selection commenced on the basis of the Rules then in existence would continue under the said Rules, even though the Rules may have been amended in the meantime.*” However, the facts of the said case are clearly distinguishable and the principle, “*rules of the game cannot be changed after the recruitment process has started*” will not apply in the peculiar facts and circumstances of the present case.

27. A perusal of the facts in the case of *Mohd. Raisul Islam* (supra) relied upon by the counsel for the applicant clearly indicates that in the said case, an advertisement was issued and a recruitment process for filling up 30 posts in accordance with the provisions of Rule 4 of the Assam Civil Services (Class I) Rules, 1960 was initiated. The advertisement was issued on 22.05.1984 and it was clearly stipulated therein that the recruitment would take place in accordance with the provisions of Rule 4 as it existed on 22.05.1984. The entire recruitment process was completed in accordance with Rule 4 (supra) as notified in the advertisement and the Assam Public Service Commission recommended the candidates to the Government on 27.06.1986, after selection, for appointment to the posts of ACS Class I and ACS Class II officers. This fact clearly demonstrates that the recruitment process commenced when the advertisement was issued on 22.05.1984 in

accordance with the provisions of Rule 4 of the Service Rules as it existed on that date and as notified in the advertisement. However, after the selection process was concluded and before the appointment could be made, Rules 4(1) and 4(1)(b) were amended by notification dated 21.07.1986, whereby the quota for persons to be promoted from Class II i.e. the departmental quota, which was fixed as 50% of the total vacancies was deleted and it was left to the discretion of the Governor to decide the quota. The method of recruitment to the post in question was clearly stipulated in Rule 4 of the 1960 Rules, based on which the advertisement had been issued. A perusal of the judgment shows that the case involved a situation where, in accordance with the provisions of Rule 4 of the 1960 Rules as it existed on 22.05.1984, the advertisement was issued, the entire selection process was conducted and the recommendations for appointment were made on 27.06.1986 i.e. much prior to the amendment to Rule 4 on 21.07.1986. Since the rule governing recruitment itself was amended after the recruitment process had been conducted, the Hon'ble Supreme Court in para 38 accepted the proposition that the process of selection commenced on the basis of a particular rule as it existed at the time of advertisement cannot be altered once the process has been initiated by amending the rules. The said principle, however, does not apply to the facts and circumstances of the present case.

28. In the present case, we have examined the issue in detail in Para 24 and 25 hereinabove and we find that there is no amendment to the selection process or in the method of recruitment as prescribed in the advertisement. The issue has been discussed in detail by us in Para 25 and 26 hereinabove. Thus, in our considered view, the principle laid down in the case of Mohd. Raisul Islam and Others (supra) is clearly distinguishable both on facts and law and will not be applicable to the present case in any manner whatsoever.

29. Given the absence of any express promise in the recruitment material, there can be no question of detrimental reliance or promissory estoppels. The recruitment advertisement itself is silent on a specific condition; hence, the claim based on an un-communicated policy prevalent at the time of the process of recruitment cannot succeed. No rule was changed "midway" in the case of the applicant, instead AFI 1/2013 which amended AFI 2/73 was made effective from 1st July 2013 when the applicant was inducted into the IAF. Hence his demand regarding application of AFI 2/73 in his case holds no merit.

30. In view of the aforesaid analysis, we find that the Applicant's induction date of 01st July 2013 correctly subjects him to the Amendment AFI 1/2013, which granted one year's ante-date seniority, and we are of the considered opinion that this decision is neither arbitrary nor illegal, but is a valid

exercise of the Executive's power to regulate service conditions. The challenge to the policy itself, including the plea for inter-service parity, is also dismissed as it pertains to policy domain and does not violate any constitutional or statutory right of the Applicant. The Indian Army has also amended its instructions (SAI 1/S/94) to reduce the ante-date seniority from two years to one year vide MoD UO dated 12 Nov 2009, whereas, there is no provision for grant of ante-date seniority to Technical graduates in the Indian Navy as well.

31. Hence, the OA 429/2018 along with OA 465/2018, OA 467/2018, OA 430/2018 and OA 431/2018 is dismissed, being devoid of merits.

32. Miscellaneous application(s), if any, are disposed off.

Pronounced in open Court on this ¹⁴7 day of November, 2025.

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(RASIKA CHAUBE)
MEMBER (A)