

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

OA 443/ 2020

**Brig Porandla Suresh Kumar Patel Applicant
Versus
Union of India & Ors. Respondents**

**For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : Dr. V. S. Mahndiyan, Advocate**

CORAM:

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

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Dated: 15 December, 2025

ORDER

The applicant, through the medium of this Original Application filed under Section 14 of the Armed Forces Tribunal Act 2007, seeks the following reliefs:

- (a) *To direct the Respondents to grant Special Review (Fresh) for promotion from Col to Brig by PB(Med) No. 2, which was held on 26 Nov 2012 but not empanelled, with his changed profile including therein the marks for award of SM(Gallantry) and grant consequential relief in the event of his empanelment by PB2.*
- (b) *To direct the respondents to grant special review (fresh) for promotion to the rank of Maj Gen by PB(Med) No 1 by awarding marks for SM(G) and grant*

consequential relief in the event of his empanelment by PB1.

(c) *That the Applicant be awarded reasonable cost of the litigation as deemed just by the Hon'ble Court in the facts and circumstances of the case.*

Facts of the Case

2. The applicant was commissioned into the Army Medical Corps on 12.09.1984 and was awarded the Sena Medal 26.01.1992 while serving in 51 Special Action Group. Thereafter, on 10.04.2013, after 21 years of conferring award, the respondents informed the applicant that his Sena Medal has been classified as a Sena Medal (Distinguished) , following which the applicant filed a statutory complaint on 08.11.2014 to restore his award to Sena Medal (Gallantry) and the said statutory complaint was rejected on 20.01.2017. Subsequently, the applicant filed OA No. 472 of 2017 before this Tribunal against the rejection of his statutory complaint dated 08.11.2014 and to direct respondents to re-categorize the award of Sena Medal as 'Gallantry "instead of "Distinguished". The Tribunal vide order dated 01.08.2019 allowed the application and directed the respondents to reconsider the classification of the applicant's pre-1994 Sena Medal in accordance

with the revised policy. Thereafter, in compliance with the order dated 01.08.2019 of this tribunal, the competent authority directed that the award of the applicant be treated as "Gallantry' instead of 'Distinguished Service'. However, the applicant did not receive the consequential benefits and thereafter served Legal Notice dated 16.12.2019 for holding A Special Review Board qua Applicant by Selection Board No 2 (Promotion from Col to Brig) held in Nov 2012 and also for promotion from Brig to Maj Gen by Selection Board No 1 held in Dec 2017 and to fix his seniority with his batch-mates. The notice was duly replied on 10.01.2020. The applicant retired from service on 31.03.2019 at the rank of Brigadier and he was not empanelled for promotion to Major General in the promotion boards held in 2018. He contended that the erroneous re-categorisation of his award adversely affected his promotion prospects. An execution application was filed by the applicant before this tribunal for execution of order dated 01.08.2019 and the same was disposed of on 10.02.2020, without grant of any relief but with liberty granted to pursue a fresh application for entitlement.

Submission on behalf of the Applicant

3. The Applicant submits that he was awarded the Sena Medal (SM) for Gallantry on 26.01.1992, however this award was subsequently and arbitrarily recategorised as the Sena Medal (Distinguished), a change communicated to the applicant only after more than two decades, causing grave prejudice to the Applicant's service record, promotion prospects, and entitlements. Being aggrieved by the unlawful recategorisation and consequential denial of benefits, the Applicant filed Original Application (OA) No. 472/2017 before this Hon'ble Tribunal for restoration of the award as the Sena Medal for Gallantry ab initio, along with all consequential benefits including arrears. The applicant further submits that the Respondents failed to extend consequential benefits arising from the restoration of the Gallantry award as directed by this tribunal in order dated 01.08.2019, following which the Applicant superannuated on 31.03.2019 as a Brigadier and was denied empanelment for promotion to the rank of Major General in promotion boards held post restoration, in violation of the applicable service and promotion policies. It is the case of the applicant that the promotion policy dated 05.02.2016 explicitly

mandates additional marks for officers awarded Gallantry awards, including the Sena Medal (Gallantry) and that he was unjustly deprived of such marks during promotional consideration by the relevant promotion boards PB Med No. 2 and PB (Med) No. 1, which gravely affected his career progression and post-retirement benefits.

4. Learned counsel for the applicants submits that he is entitled to a special review fresh by the promotion boards, with restoration and inclusion of marks attributed to the award of the Sena Medal (Gallantry) in his service profile as this entitlement arises from the Tribunal's order restoring the award *ab initio*, the positive promotion policy, and the principles of natural justice ensuring fair consideration. Furthermore, learned counsel for the applicant submits the denial of special review and consequential benefits constitutes a continuing breach of the Applicant's statutory and constitutional rights under the relevant service laws and regulations, causing irreparable harm and therefore he prays for direction to respondents to grant a special fresh review for promotion from Colonel to Brigadier by PB Med No. 2, incorporating the Applicant's revised profile with marks for Sena

Medal (Gallantry) and to grant a special fresh review for promotion to the rank of Major General by PB Med No. 1 with inclusion of marks for Sena Medal (Gallantry), and grant consequential relief if empanelled.

Submission on behalf of the Respondents

5. Per contra, the respondent submits that pursuant to the directions of this Hon'ble Tribunal, the Respondents duly reconsidered the award and restored the Applicant's Sena Medal as Gallantry vide letter dated 18.11.2019, however by the time the recategorisation of Sena Medal as "Gallantry" was done, the Applicant had already superannuated from service on 31.03.2019. It is further submitted on behalf of the respondent that the Applicant was rightly considered in various Promotion Boards for grant of promotion as per the extant promotion policies (letters dated 14.01.2004 and its amendments) and As the Applicant's award was considered as Sena Medal Distinguished during those boards, he was granted marks accordingly (0.5 marks). Learned Counsel for the respondents submits that the extant Promotion Policy dated 05.02.2016, effective from calendar year 2017, provides for awarding marks to officers for gallantry awards only in

the first promotion board they are eligible for after the award is conferred. There is no provision for retrospectively awarding marks or conducting special reviews after retirement. The respondent further submits that the Applicant's claim for retrospective effect, special review boards, and consequential benefits post superannuation are not supported by any service rules or policy and contravene established principles of fairness and finality and therefore the instant OA is devoid of merit and is liable to be dismissed.

Consideration

6. We have heard learned counsel on either side and have also taken into consideration the documents available on record.

7. In the instant case the Applicant seeks the extraordinary relief of a Special Review Promotion Board and consequential notional promotion, arguing that the delayed administrative correction of his Sena Medal to 'Gallantry' vitiated his consideration by past Selection Boards, particularly PB (Med) No. 1 for promotion to Major General.

8. This tribunal acknowledged that the Respondents have complied with the Tribunal's order dated 01.08.2019, confirming

that the Applicant's Sena Medal should be treated as 'Gallantry' *ab initio*. This rectifies an administrative error that persisted for over two decades and ensures the Applicant's service record is correctly classified. However, the entitlement to retrospective promotion or a special review must be examined against the objective standards of the selection process itself. The claim of applicant for a Special Review hinges on the premise that the inclusion of the correct marks for the Sena Medal (Gallantry) would have altered his final grading and secured his empanelment for Major General.

9. To ascertain the claim the Tribunal directed the respondents to make available for perusal the comparative profile of the applicant before and after taking into consideration marks for SM (Gallantry) in Promotion Board Nos. 1 and 2 both for Colonel to Brigadier and Brigadier to Major General. Having perused the table provided by the respondents, we first examined the prayer with regard to the applicant's case regarding non-empanelment as Major General.

10. The figures produced by the Respondents remain undisputed and decisively refute the contention put forth by the applicant in this regard. The critical data point with regard to the applicant's

final consideration for Major General (PB-1, 1st chance and 2nd chance) has been considered. The required cut-off mark for empanelment was 91.60 and 91.10 respectively. Even after granting the full, corrected marks for Sena Medal (Gallantry), the applicant's hypothetical revised scope become 90.45 and 91.00. These revised scores definitely fall short of the required merit threshold.

11. It is thus apparent that the applicant was not a "marginal case" whose non-selection was caused by the 0.25 difference in award marks; which exists between Sena Medal (Gallantry) and Sena Medal (Distinguished) rather, his profile, even when corrected, failed to meet the minimum qualifying score required to be empanelled.

12. To compel a Special Review Board under these circumstances would be a futile exercise in procedural compliance that cannot alter the mathematical and meritocratic reality of the selection process. The administrative error, while corrected, did not constitute the proximate cause of the non-selection for Major General. Furthermore, regarding promotion to Brigadier (PB-2), the Respondents' comparative profile explicitly confirms the Revised

Grading for PB (2) Chance 1 will continue to be 'NS' (Not Selected), despite the numerical increase. However, in case of PB (2) chance 2 the applicant was meeting the cut-off even when Sena Medal (Distinguished) was considered. Hence insisting to substitute the same with Sena Medal (Gallantry) would serve no fruitful purpose. This indicates that the selection process has been fair and he continued to be outside the selection zone as far as promotion to Major General is concerned. This indicates that the selection process, which involves limited vacancies and competitive ranking, still placed the Applicant outside the selection zone.

13. In conclusion, this Tribunal is of the view that the applicant is not entitled to the consequential relief sought because, even after correcting the administrative error and factoring in the higher marks for the Sena Medal (Gallantry), the Applicant would still not have qualified for empanelment for promotion to the rank of Major General in the relevant Selection Board. Therefore, the Applicant's prayer for a Special Review Selection Board for promotion to Brigadier (PB-2) and Major General (PB-1) and all associated consequential benefits is denied, as he did not meet the required cut-off marks for empanelment for promotion to Major General in

both the chances and to Brigadier in the first chance. The present Original Application is, therefore, devoid of merit and is liable to be dismissed.

14. There shall be no order as to costs.

Pending miscellaneous application(s), if any, stand closed.

Pronounced in open Court on this 15th day of December, 2025.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[RASIKA CHAUBE]
MEMBER (A)

/Alex/