

COURT No.1  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA 81/2024

Sqn Ldr Bhim Bala ..... Applicant  
Versus  
Union of India and Ors. .... Respondents

For Applicant : Mr. Ravi Kumar, Advocate  
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

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

ORDER

The present Original Application has been filed by the applicant, who is a Short Service Commissioned Officer, invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007. The applicant has assailed the alleged arbitrary and discriminatory action of the Directorate General Armed Forces Medical Services (DGAFMS) in denying her the opportunity to appear before the Departmental Permanent Commission (DPC) Board for the year 2023, in contravention of the extant provisions of the Army Instructions (AI). The applicant contends that such denial has deprived her of the lawful opportunity to be considered for the grant of Permanent Commission (PC) in the Medical Corps of the Armed Forces. In paragraph 8 of the Original Application, the applicant has prayed for the following reliefs.”:

*”(a) To quash the impugned orders/letters annexed as ANNEXURE A1 to this OA.*

*(b) To direct the respondents to declare the applicant as having passed the DPC Board of 2023, as she has been stopped illegally from appearing in the interview of DPC Board 2023, and thereby grant permanent commission to the applicant in the Armed Forces Medical Services.*

*OR ALTERNATIVELY,*

*To direct the respondents to allow the applicant to appear before the DPC Board of 2024 and other DPC Boards conducted after DPC Board of 2023, and thereby three fair opportunities/chances, as per the letter dated 19 Apr 2021, shall be given to the applicant for taking up departmental examination to get permanent commission in the Medical Corps of Armed Forces.*

*(c) To pass such orders, direction/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law."*

### **Brief Facts**

2. The applicant is a AMC officer who completed her MBBS from Bundelkhand Government Medical College, Sagar (Madhya Pradesh) in the year 2016 and subsequently obtained her post-graduate degree, i.e., M.S. in General Surgery, in 2020. Thereafter, she was granted Short Service Commission (SSC) in the Army Medical Corps of the Armed Forces on 31.05.2021 and was initially posted to the Air Force Hospital, Ambala. Presently, she is serving as a Graded Specialist (General Surgery) at 7 Air Force Hospital. The applicant successfully completed the prescribed probation period of one year and was retained in service. Her date of birth being 14.07.1987, she was 33 years of age at the time of commissioning.

### **Submissions on behalf of the Applicant**

3. It is the case of the applicant that on 10.05.2023, the Directorate General Armed Forces Medical Services (DGAFMS) issued a notification regarding the conduct of the Departmental Promotion Committee (DPC) for serving SSC officers. As per Para 3(a)(ii) of the said notification, an officer possessing a post-graduate qualification

and who has not attained the age of 35 years as on the date specified therein is eligible to apply for consideration by the DPC Board. The said paragraph further stipulates that *“any Civil PG candidate who has been granted SSC on or after 19.04.2021 and up to 01.01.2022 may apply for the DPC Board for the year 2023 irrespective of the age limit mentioned above.”*

4. The applicant contends that although she had completed 35 years of age, she falls within the ambit of the relaxation clause, having been granted SSC on 31.05.2021, which lies within the specified window of 19.04.2021 to 01.01.2022. Accordingly, she asserts that she was fully eligible for consideration by the DPC Board for the year 2023, having fulfilled all other prescribed criteria. The applicant has further relied upon the Government of India, Ministry of Defence letter dated 19.04.2021, which amended Army Instruction No. 75/78, granting SSC officers of the Medical Corps, irrespective of age, three chances to appear before the DPC for consideration for Permanent Commission. The said amendment was effective from 19.04.2021. However, despite the aforesaid relaxation, the applicant was denied consideration by the DPC on the ground of being overage.

5. Aggrieved thereby, the applicant submitted a representation dated 04.10.2023 to the competent authority, requesting reconsideration of her case in light of the provisions contained in the notification dated 10.05.2023 and the amended Army Instruction No.75/78. However, the said representation was rejected

by the respondents vide the impugned communication dated 23.10.2023, whereby the applicant was denied an opportunity to be considered for grant of Permanent Commission in the Armed Forces. Hence, the present Original Application.

6. Learned counsel for the applicant submits that the reasoning advanced by the respondents for denying the benefit of consideration and consequently depriving the applicant of the opportunity to appear before the DPC Board for the year 2023 is legally untenable. It was contended that although the applicant had submitted her application for grant of Short Service Commission prior to the amendment, the commission itself was granted to her on 31.05.2021, i.e., subsequent to the promulgation and enforcement of the revised Army Instruction No.75/78 dated 19.04.2021. Accordingly, the learned counsel argued that the applicant's case ought to have been governed by the amended provisions, as the grant of commission and all consequential rights there under accrued only after the amendment had come into effect.

7. It was further argued that the interpretation adopted by the respondents, if accepted, would lead to manifest arbitrariness and grave discrimination between two similarly situated officers who are of the same age and possess identical eligibility credentials, whereby one officer would be deemed eligible for consideration by the DPC while another would be denied the same opportunity merely because the application for SSC was submitted before 19.04.2021. Such an interpretation, according to the learned counsel, would defeat the

intent of the amendment and violate the constitutional guarantees enshrined under Articles 14 and 21 of the Constitution of India.

8. The learned counsel drew attention to the applicant's offer of appointment, which explicitly indicates that her commission in the Army Medical Corps was made under the amended terms and conditions of Army Instruction No. 75/78. Having accepted the said offer, the applicant was duly granted SSC on 31.05.2021 in accordance with the revised policy framework, and therefore her eligibility ought to have been assessed under the amended provisions effective from 31.05.2021.

9. The learned counsel for the applicant further placed reliance on the decision of this Tribunal in Wg Cdr Vyomika Singh Vs. Union of India & Others (OA No.1740 of 2019, decided on 19.12.2019), wherein a similar issue pertaining to consideration for grant of Permanent Commission to a Short Service Commissioned Officer was adjudicated. In the said case, this Tribunal, while reaffirming the settled legal principle that "...the legal right which had accrued to the applicant cannot be taken away...", held that denial of such right on technical or arbitrary grounds would be impermissible in law.

10. The learned counsel submits that the ratio of the aforesaid decision squarely applies to the facts of the present case. He further argued that the impugned communication dated 23.10.2023 reflects an arbitrary interpretation of the policy and results in an impermissible

sub-classification within a homogeneous group of SSC officers, which is violative of the equality clause under Article 14 of the Constitution.

11. Reliance was also placed upon the judgment of the Hon'ble Supreme Court in Indian Ex-Servicemen Movement & Others Vs. Union of India & Others [W.P. (C) No. 419 of 2016, decided on 16.03.2022], wherein it was held that a policy or scheme cannot validly bifurcate a homogeneous class based on an arbitrary or irrational cut-off date. On parity of reasoning, it was contended that the respondents cannot discriminate against the applicant merely on the basis of the date on which her application for SSC was submitted, when her actual commission and service rights accrued only after the amended policy had come into effect.

12. Before concluding his submissions, learned counsel also placed reliance on various judicial pronouncements upholding the principle that administrative discretion must operate within the bounds of reasonableness, fairness, and non-discrimination, and that any deviation therefrom would render the impugned action liable to be set aside.

#### Submissions on behalf of the Respondents

13. Per contra, Mr. Anil Gautam, learned Sr. CGSC appearing for the respondents prima facie submits that the contention of the applicant, relying upon the note appended to Para 3 of the DGAFMS notification dated 10.05.2023, is misconceived and erroneous.

14. It was submitted that officers from the civilian side are permitted to undertake Postgraduate/Super-Specialty courses in Armed Forces Medical Services (AFMS) Institutes as Priority-V candidates under a bond obligation to serve in AFMS as SSC officers for a period of five years upon successful completion of the course, failing which they are liable to repay the bond amount. The process for grant of SSC to the Priority-V Civil PG candidates of the 2018–2021 batch was initiated after the issuance of the amended policy, and these candidates were granted SSC under the revised age criteria stipulated in the MoD letter dated 19.04.2021.

15. Learned Sr. CGSC contended that the note below Para 3 of the notification dated 10.05.2023 was incorporated specifically to cater to such candidates and was subsequently clarified vide DGAFMS notification dated 09.10.2023, as the earlier notification dated 10.05.2023 was being misconstrued.

16. It was further submitted that the present Original Application has been filed as an afterthought seeking to derive an unintended benefit by contending that the amended criteria for DPC notified vide MoD letter dated 19.04.2021 should be made applicable to the applicant merely because her SSC was granted on 31.05.2021. In fact, the applicant was granted SSC pursuant to the July 2020 notification. The issuance of the offer letter on 01.05.2021 due to administrative exigencies arising from the COVID-19 pandemic cannot constitute a valid ground for any differential treatment vis-à-vis other candidates

who were higher in merit and had already been granted SSC under the same July 2020 notification.

17. Acceptance of such a plea, it was argued, would result in creation of a class within a class among the candidates considered by No.5 Selection Board (No.5 SB) held in August–September 2020, whereby officers higher in merit, commissioned prior to the amended policy, would be governed by the provisions of the earlier AI, while officers commissioned subsequently would be governed by the amended policy dated 19.04.2021.

18. Learned Sr. CGSC further submitted that the applicant had applied for grant of SSC in AMC in response to the July 2020 notification and appeared before No. 5 SB. As per merit and selection, the candidates, including the applicant, were offered SSC vide offer letter dated 01.05.2021 and were granted commission on 31.05.2021. The grant of Permanent Commission to SSC officers is governed by AI Nos. 75/78 and 74/76 as were in force at the time of consideration. The provisions of AI No. 75/78, as extant in July 2020, pertained to the service bracket and number of DPC chances, while the age limit for consideration was stipulated in Para 4 of AI No. 74/76 as amended vide MoD letter dated 21.09.2001.

19. Learned Sr. CGSC emphasized that the applicant, at the time of grant of SSC, was 33 years, 10 months and 17 days old, and was fully aware that she would be entitled to serve only as an SSC officer,

with no opportunity for DPC under the applicable rules. The applicant had accepted these terms prior to joining.

20. It is contended by the Learned Sr. CGSC that the amendment of certain provisions of AI Nos. 75/78 and 74/76 regarding eligibility for grant of SSC as well as criteria for DPC was promulgated vide MoD policy dated 19.04.2021. As per the amended provisions, the maximum age for entry into AMC was reduced to 30 years for MBBS holders and 35 years for post-graduate degree holders.

21. It is further elaborated by the Ld. Sr. CGSC that Clause (b) of amended Para 12 of Annexure A1 to AI No. 75/78 permits officers commissioned under the amended age criteria to avail three chances for DPC consideration between 2 to 9½ years of service, irrespective of age at the time of applying, subject to fulfillment of other conditions, and provided that not more than two chances are availed within the first five years. Consequently, only those officers commissioned pursuant to the amended policy dated 19.04.2021 are eligible for three DPC chances irrespective of age. The applicant, having applied under the pre-amendment July 2020 notification, is governed by the earlier policy.

22. Throwing light on the procedural matrix, Learned Sr. CGSC further submitted that applications for DPC were invited vide letter dated 10.05.2023 and a subsequent clarification dated 09.10.2023 explicitly provided that only candidates granted SSC under the amended age criteria of 19.04.2021 are eligible for DPC irrespective of

age. The reliance of the applicant on the note under Para 3 of the notification dated 10.05.2023 is therefore misconceived. Civil PG candidates are permitted to serve under Priority-V bond obligations, and the clarification of 09.10.2023 was necessitated to prevent misinterpretation.

23. Learned Sr. CGSC emphasized that the applicant had applied for DPC on 29.05.2023 but was found ineligible due to being overage, and her representation dated 04.10.2023 was duly rejected vide order dated 23.10.2023.

24. Concluding, it is argued by the Learned Sr. CGSC that the applicant's case rests entirely on a contention seeking application of the 19.04.2021 MoD notification, whereas she was granted SSC pursuant to the July 2020 notification. The issuance of the offer letter on 01.05.2021 due to administrative exigencies does not entitle the applicant to differential treatment vis-à-vis other candidates. The applicant was ineligible for consideration for DPC as per extant rules, and her application was rejected strictly in accordance with law, and thus, the OA is devoid of merit and is liable to be dismissed with costs.

#### Consideration

25. Although the respondents have raised a preliminary objection under Section 27 of the Army Act, 1950, we, in the interest of justice and given the urgency and purely legal nature of the issue, are of the opinion that this case has to be considered on merits, which has not

been barred by the departmental remedies available prior to filing the present OA.

26. We have given our thoughtful and balanced consideration to the submissions advanced by both parties and have perused the records and documents pertaining to the grant of the Departmental Permanent Commission (DPC) in the Armed Forces Medical Services.

27. The questions for determination before this Tribunal are as follows: (i) Whether the applicant's commissioning on 31.05.2021 ought to be governed by the pre-amendment policy as stipulated in the July 2020 notification or by the post-amendment policy issued vide MoD letter dated 19.04.2021; (ii) Whether the denial of opportunity to the applicant to appear before the DPC Board for the year 2023 was arbitrary or discriminatory; and (iii) Whether the applicant is entitled to any relief as claimed in the present Original Application, for the reasons and grounds articulated therein.

28. On perusal of the records, it is evident that the applicant had applied for SSC pursuant to the DGAFMS notification issued in July 2020. The selection process under this notification was duly completed, and the applicant was placed on a waiting list. Her eventual commissioning on 31.05.2021.

29. At this point, we find it pertinent to refer to the amendment to AIs No. 75/78 and 74/76 vide MoD letter dated 19.04.2021, reproduced as under:

No.3569/DGAFMS/DG-1B(i)/389/21/D(Med)  
Government of India  
Ministry of Defence

To,  
The DGAFMS  
New Delhi

SUBJECT: AMENDMENT TO ARMY INSTRUCTION 75/78 & 74/76 REGARDING TERMS AND CONDITIONS OF SERVICE FOR OFFICERS GRANTED SHORT SERVICE COMMISSION (AI 75/78) & PERMANENT COMMISSION (AI 74/76) IN THE ARMY MEDICAL CORPS.

Sir,

I am directed to convey the sanction of the President for the following amendments to AI 75/78 & AI 74/76 for implementation with prospective effect from date of issue of this amendment.

(a) Amendment to Para 3(c) of AI 75/78

(i) For:

(c) Age Limit: Candidates must not have attained 45 yrs of age on 31<sup>st</sup> December of the year of receipt of application from them.

(ii) Read as:

(c) Age Limit: Candidates must not have attained the following age limits as per their qualification as on 31<sup>st</sup> December of the year of receipt of application from them:-

(i) MBBS/ MBBS with PG Diploma - 30 years  
recognized by Medical Council of India (MCI)  
National Board of Examination (NBE)/  
Equivalent Statutory Bodies for Medical  
Education.

(ii) MBBS with PG Degree recognized - 35 years  
by MCI/ NBE/ Equivalent Statutory  
Bodies for Medical Education.

(b) Amendment to Para 12 of Annexure A to AI 75/78

(i) For:

12. Officers granted SSC will be given three chances for taking up the departmental examination for permanent commission at any time after completion of two years of SSC service and before completion of 9 ½ yrs service provided they fulfil the conditions of eligibility laid down in the AI 74/76 as amended subject to the condition that not more than two chances shall be given in one tenure of five years. During second or subsequent tenure, if not done in continuation of the first tenure, no chance for departmental permanent commission will be given.

(ii) Read as:

12. (a) Officers granted SSC will be given three chances for taking up the departmental examination for permanent commission after completion of two years of SSC service and before completion of 9 ½/ yrs service provided they fulfil the conditions of eligibility laid down in the AI 74/76 as amended subject to the condition that not more than two chances shall be given in one tenure of five years including SSC officers commissioned from AFMC. SSC officers commissioned from AFMC may avail third chance for Departmental Permanent Commission after 05 years of service in the first tenure which is of 07 years. During second or subsequent tenure, if not done in continuation of the first tenure, no chance for departmental permanent commission will be given.

(b) In addition all officers so commissioned with the amended age criteria will be given three chances for taking up the departmental examination after completion of two years of SSC service and before completion of 9 ½ yrs service irrespective of the age criteria when applying for Departmental Permanent Commission examination provided they fulfil the other eligibility criteria laid down in AI 74/76 as amended subject to the condition that not more than two chances shall be given in the 1st five years of SSC service.

(c) Amendment to Para 4(a) (i), (ii) & (iii) of Annexure to AI 74/76.

(i) For:

4. (a) Candidates must not have attained 30 years of age on 31 December of the year of receipt of application from them. But in case of candidates possessing additional medical qualifications, the following age limits will apply:-

- (i) Those possessing post graduate diploma like DOMS, DPH, DA etc. -31 years.
- (ii) Those possessing post graduate qualifications like MD, MS, etc. - 35 years
- (iii) Those possessing high post graduate qualifications like FRCS, MRCP, MRCOG etc. and have served in their specialities under recognized medical institutions for a period of atleast five years vide para 1 (c) above. - 36 years.

(ii) Read as:

4. (a) Candidates must not have attained 30 years of age on 31 December of the year of receipt of application from them for direct Permanent Commission entry in AMC. But in the case of candidates possessing additional medical qualifications, the following age limits will apply:-

(i) Those possessing MBBS/ MBBS - 30 years  
with PG Diploma recognized by MCI/NBE/ Equivalent  
Statutory Bodies for Medical Education.

(ii) Those possessing PG Degrees - 35 years  
and post doctoral qualifications like DM/  
MCh/ DNB (in super speciality)  
degrees recognized by MCI/ NBE/  
Equivalent Statutory Bodies for Medical  
Education.

(d) Para 4 (b) of AI 74/76 to be deleted:

3. The relevant paras of AI 75/78 and 74/76 are deemed to be amended from the date of the issue of this letter.

4. This issues with the concurrence of Ministry of Defence (Finance) under their UO No. 1(10)/2017/AG/19-PA dated 22:3.2021.

Yours faithfully,

Sd/-

(A.H.Ganesh)

Under Secretary to the Govt. of India

Tele: -----

Copy to:

The Controller General of Defence Accounts, New Delhi  
The Director of Audit, Defence Services, New Delhi  
The Deputy Director of Audit, Defence Services, Allahabad  
The Adjutant General's Branch/PS-2(a)

30. From a perusal of aforesaid amendment letter dated 19.04.2021, we note that this letter provides for amendments to Army Instructions 75/78 and 74/76 regarding the terms and conditions of service for officers granted Short Service Commission (SSC) and Permanent Commission in the Army Medical Corps while relate primarily to the age limits for candidates applying for commission based on their medical qualifications and the procedures for eligibility and attempts permitted for departmental examinations for permanent commission.

31. Notably, age limits post this amendment vary with qualification levels: MBBS or MBBS with PG Diploma candidates must not have attained 30 years, whereas those with MBBS and PG Degree may be up to 35 years of age on the cut-off date. The letter also revises the terms of consideration for SSC officers seeking permanent commission, stipulating that officers are granted three chances to undertake departmental examinations following two years of SSC service, provided all eligibility criteria as amended are met. There are now conditions on the distribution of these attempts within the tenure, including a special provision for SSC officers commissioned from AFMC. Additionally, eligibility for attempts has been extended to all officers commissioned under the amended age criteria, but not more than two chances are allowed within the first five years of SSC service.

32. At this point, we find it essential to refer to notification dated 10.05.2023 detailing consideration of SSC Officers for PC by DPC for the years 2023, reproduced as under:

REGD/ BY HAND

O/o the Director General  
Armed Forces Medical Services  
Ministry of Defence, Room No 402  
'A' Block, Defence Offices Complex  
Africa Avenue, New Delhi  
Pin-110023

10 May 2023

34528/AMC/2023 DGAFMS/DG-1A

Integrated HQ Ministry of Defence (Army)  
Adjutant General's Branch  
Directorate General Medical Services (Army)/DGMS-1A  
'A' Block Defence Offices Complex  
KG Marg, New Delhi-110001

Integrated HQ Ministry of Defence (Navy)  
Directorate General Medical Services (Navy)/Med-1  
Sena Bhawan. New Delhi-110001

Directorate General Medical Services (Air)/Med-1  
Air Headquarters, RK Puram, New Delhi-110066

**GRANT OF DEPARTMENTAL PERMANENT COMMISSION  
TO SERVING SHORT SERVICE COMMISSIONED OFFICERS  
IN ARMED FORCES MEDICAL SERVICES FOR THE YEAR 2023**

1. The Selection Board for grant of Departmental Permanent Commission to the serving Short Service Commissioned officers in AFMS will be held in the month of Sep/Oct 2023 as per time frame given below:

S. No	Event	Last date for action
(a)	Last date of submission of Applications to CO	01 Jun 2023
(b)	Last date of receipt at DGMS	01 Jul 2023
(c)	Last date of receipt at DGAFMS	01 Aug 2023
(d)	Tentative schedule of interview	In Sep/Oct 2023

2. The above mentioned time frame is to be followed meticulously by all concerned and the applications for grant of Departmental Permanent Commission, as per the format attached to this letter, be forwarded to reach this Office on or before 01 Aug 2023. Any changes to the format will render the application as null & void & liable for rejection.

3. The eligibility criteria for grant of DPC has been laid down vide Paras 1 to 5 Annexure to AI 74/76, as amended from time to time as given below:

**(a) Age Limit.** Candidates must not have attained 30 years of age on 31 Dec 2023 for Departmental Permanent Commission from them. But in the case of candidates possessing additional medical qualification, the following age limits will apply:

(i) Those possessing post-graduate diploma like DOMS, DPH, DA etc..... 31 years (as on 31 Dec 2023).

(ii) Those possessing post-graduate qualifications like MD, MS etc. ....35 years (as on 31 Dec 2023).

**Note:** Age criteria mentioned in Para 3 (a) (ii) is applicable only to those officers who are in possession of Post Graduate Degree acquired by them prior to commissioning (refer Gol/ Mod letter No. 34528/DPC/DGAFMS/DG-1A/2493 dt 21 Sep 2001).

**Any Civil PG candidate who has been granted SSC on or after 19 Apr 2021 to 01 Jan 2022 may apply for DPC Board for the year 2023 irrespective of the age limit mentioned above (refer Gol/ Mod letter No. 3569/DGAFMS/DG-1B(i)/389/21/D(Med) dt 19 Apr 2021).**

**(b) Service Limit.**

(i) Minimum: Serving AMC (SSC) officers will be eligible for grant of Permanent Commission through DPC Selection Board on completion of minimum 02 years of service as on 31 Dec 2023.

(ii) Maximum: Serving AMC (SSC) officers will be eligible for grant of Permanent Commission through DPC Selection Board only if they have not completed the maximum 9½ years of service as on 31 Dec 2023.

(iii) Chances: Officers granted SSC will be given three chances for taking up the departmental examination for permanent commission after completion of two years of SSC service and before completion of 9½ yrs service provided they fulfill the conditions of eligibility laid down in the AI 74/76 as amended subject to the condition that not more than two chances shall be given in one tenure of five years including SSC officers commissioned from AFMC. SSC officers commissioned from AFMC may avail third chance for Departmental Permanent Commission after 05 years of service in the first tenure which is of 07 years. During second or subsequent tenure, if not done in continuation of the first tenure, no chance for departmental permanent commission will be given.

(c) Medical Category. The SSC officers appearing before the Selection Board for grant of Departmental Permanent Commission should be in SHAPE-1. In the case of those who have suffered disability owing to war casualty, the medical category up to grade 2 under any of the SHAPE will be acceptable except 'S' factor. However, candidates in temporary LMC will be allowed to appear in the interview for DPC, but grant of Permanent Commission will be subject to their being in SHAPE-1. In such cases the Permanent Commission will be granted from the date they are declared in SHAPE-1.

4. The application in respect of the eligible officers may be forwarded duly completed in all respects to reach this office on or before 01 Aug 2023. The applications may be recommended and forwarded after due scrutiny to ensure that the officers are fulfilling the eligibility criteria mentioned in Para 3 above. It may, please, be noted that applications received after due date will not be processed.

ACRs.

5. It is seen that the results of a number of officers is held up for want of latest ACRs/ NIR. Therefore, all Senior Officers in chain of reporting are also requested to ensure timely submission of ACRs/NIR of officers under chain of reporting to Olo DGAFMS so as to avoid deferment of results. Commandants/ Commanding Officers should ensure that the ACRs for the period of 2021-22 & 2022-23 of the officers applying for the DPC Board 2023 are initiated on time and must reach in the Office of DGAFMS/CRD Cell on time.

6. The date of interview will be intimated after scrutiny of the applications at this HQ.

7. The contents of this letter may be disseminated to all concerned.

(Mukesh Rathod)

Sd/-  
Lt Col  
AAG AFMS/DG-1A  
For DGAFMS

The Commandant, AFMC Pune;  
The Dy Dir Gen (Med), DGBR, Naraina, New Delhi;  
HQ Ladakh Scouts;  
DG Rashtriya Rifles, Parade Ground, Delhi Cantt;

The Commandant, ALC Pune;  
The CO AFTC, Delhi Cantt;  
DG Assam Rifles, Shillong;  
The AFMSDs, Mumbai/  
Lucknow/Delhi Cantt/Pune

Internal:-

DG-1B(I); DG-1B(II); DG-1X; DG-1D; CRD Cell DG-1C

33. It is clear from the aforesaid letter dated 10.05.2023 from the Directorate General Armed Forces Medical Services, that it outlines the detailed schedule and eligibility criteria for the Departmental Permanent Commission (DPC) Selection Board for Short Service Commissioned (SSC) officers in the Armed Forces Medical Services (AFMS) for the year 2023, which includes the guidelines for the minimum and maximum service limits, as well as the permitted number of attempts for the departmental examination.

34. However, a crucial feature of the letter lies in the addendum to the Note appended to Para 3(b), which provides a special dispensation: *“Any Civil PG candidate who has been granted SSC on or after 19 Apr 2021 to 01 Jan 2022 may apply for DPC Board for the year 2023 irrespective of the age limit mentioned above (refer Gol/Mod letter No. 3569/DGAFMS/DG-1B(i)/389/21/D(Med) dt 19 Apr 2021).”*

35. We must observe that this judicially significant clarification overrides the general age restriction for DPC eligibility, allowing a particular cohort of Civil Postgraduate candidates recruited within the defined period to participate in the 2023 DPC without regard to age

limitations, which we presume that such an exception reflects the administration's recognition of changed circumstances or policy considerations during that timeframe, ensuring that deserving candidates are not unfairly excluded from permanent commission prospects due to interim regulatory modifications.

36. We find that subsequently, vide letter dated 22.09.2023 the date of application for consideration by DPC was extended, which however, reiterates and updates the administrative schedule, eligibility criteria, and procedural requirements for officers wishing to apply for the DPC Board 2023, including clear timelines for submission of applications, receipt at various headquarters, and interview dates. Notably, the eligibility criteria regarding age and service limits are restated for clarity; officers must not have attained 30 years of age on 31 December 2023, except for those with postgraduate medical qualifications i.e. PG Diploma holders may be up to 31 years, and PG Degree holders up to 35 years, subject to possession of such degrees prior to commissioning.

37. However, we note that a pivotal focus is again placed on the continued exception first noted in the aforequoted 10 May 2023 letter: *“Any Civil PG candidate who has been granted SSC on or after 19 Apr 2021 to 01 Jan 2022 may apply for DPC Board for the year 2023 irrespective of the age limit mentioned above,”* referencing the foundational MoD letter dated 19 April 2021. This clause, carried

forward in the September letter, demonstrates consistent application of age-relaxation for a defined cohort of Civil PG candidates.

38. We note that another letter has been issued by DGAFMS dated 09.10.2023, as a consequent clarification to earlier letters No.34528/AMC/2023 DGAFMS/DG-1A dated 10.05.2023 and 22.09.2023, and the same is reproduced as under:

Tele: 24199857

REGD/BY HAND

O/o the Director General  
Armed Forces Medical Services  
Ministry of Defence, Room No 402  
'A' Block, Defence Offices Complex  
Africa Avenue, New Delhi  
Pin-110023

34528/AMC(DPC)/2023/DGAFMS/DG-1A

09 Oct 2023

Integrated HQ Ministry of Defence (Army)  
Adjutant General's Branch  
Directorate General Medical Services (Army)/DGMS-1A  
'A' Block, Defence Offices Complex  
KG Marg, New Delhi-110001

Integrated HQ Ministry of Defence (Navy)  
Directorate General Medical Services (Navy)/Med-1  
Sena Bhawan, New Delhi-110001

Directorate General Medical Services (Air)/Med-1  
Air Headquarters, RK Puram, New Delhi-110066

GRANT OF DEPARTMENTAL PERMANENT COMMISSION  
TO SERVING SHORT SERVICE COMMISSIONED OFFICERS  
IN ARMED FORCES MEDICAL SERVICES FOR THE YEAR 2023

1. Ref this office circulars of even No dt 10 May 2023 & 22 Sep 2023.
2. The following amendment may please be carried out in Para 5 (a) of this office circular of even No dt 22 Sep 2023 and Para 3(a) of this office circular of even No dt 10 May 2023, under reference:-

FOR

Note :- Age criteria mentioned in Para 3 (a) (ii) is applicable only to those officers who are in possession of Post Graduate Degree acquired by them prior to

commissioning (refer Gol/ MoD letter No. 34528/DPC/DGAFMS/DG-1A/2493 dt 21 Sep 2001).

Any Civil PG candidate who has been granted SSC on or after 19 Apr 2021 to 01 Jan 2022 may apply for DPC Board for the year 2023 irrespective of the age limit mentioned above (refer Gol/ MoD letter No. 3569/DGAFMS/DG-1B(i)/389/21/D(Med) dt 19 Apr 2021).

READ

Note :- Age criteria mentioned above is applicable only to those officers who are in possession of Post Graduate Degree acquired by them prior to commissioning (refer Gol/ MoD letter No. 34528/DPC/DGAFMS/DG-1A/2493 dt 21 Sep 2001).

Any candidate who has been granted SSC pursuant to amended age criteria promulgated vide Gol/ MoD letter No. 3569/DGAFMS/DG-1B(i)/389/21/D(Med) dt 19 Apr 2021 is eligible to apply for DPC irrespective of age criteria mentioned above. In case of doubt the candidates are advised to refer to the offer letter vide which they were granted SSC.

3. Rest no change.

(Mukesh Rathod)

Sd/-  
Lt Col  
AAG AFMS/DG-1A  
For DGAFMS

Copy to:-

The Commandant, AFMC Pune  
The Commandant, ALC Pune  
The Dy Dir Gen (Med), DGBR, Naraina, New Delhi  
The CO AFTC, Delhi Cantt  
HQ Ladakh Scouts  
DG Assam Rifles, Shillong  
DG Rashtriya Rifles, Parade Ground, Delhi Cantt  
The AFMSDs, Mumbai/ Lucknow/ Delhi Cantt/ Pun

Internal:-

DG-1B(i); DG-1B(ii); DG-1X; DG-1D; CRD Cell; DG-1C

39. A cursory look at the aforesaid letter dated 09.10.2023 makes it clear that it serves as a corrigendum to earlier DGAFMS letters dated 10.05.2023 and 22.09.2023 regarding the grant of Departmental Permanent Commission (DPC), wherein we must record

that the aforesaid revised note clarifies that the prescribed age limits apply only to those officers who acquired their Post Graduate (PG) degrees prior to commissioning. However, additionally, it stipulates that any Civil PG candidate granted SSC on or after 19.04.2021 to 01.01.2022, or any candidate who received SSC under the amended age criteria of the 19.04.2021 directive, may apply for DFC for 2023 **regardless of standard age restrictions.**

40. We find it essential to record that when viewed in the context of the earlier letters, this amendment refines and expands the prior exceptions, since the 10 May 2023 letter introduced the age-relaxation for Civil PG candidates in a specific window and explicitly opened eligibility for the 2023 DFC regardless of age, whereas, the 22 September 2023 letter reaffirmed this cohort's eligibility while also addressing timelines expanded in light of recent changes to post-graduate selection protocols. But the present letter broadens eligibility to include not only Civil PG candidates, but also any SSC officers whose initial commission adhered to the amended age norms, clarifying that the prevailing cut-off should be determined by the terms of their offer letter at the time of appointment. Thus, it can be understood that the aforesaid letter dated 09.10.2023 makes the scope of the exception both clarified and assured.

41. If the aforesaid letter is analysed in contrasting examination of the Respondent's submission that the note permitting candidates granted SSC between 19.04.2021 and 01.01.2022 to apply for DFC

irrespective of age was expressly intended for 'Priority-V Civil PG' candidates, we find that the aforesaid submission of the Respondents does not hold any legal ground with the removal of term 'Civil PG candidate' and substituted by 'Any candidate' by the aforesaid DGAFMS clarification letter dated 09.10.2023. The applicant thus, clearly falls within the category of 'any candidate' even if not in 'Civil PG candidate'. This answers our Question No.2.

42. Now, with respect to Question no. 1, we note that the in examining the context and sequence of letters issued by the DGAFMS dated 19.04.2021, 10.05.2023, 22.09.2023 and 09.10.2023, it becomes clear that the specific intent of the relaxation provision for age eligibility was to benefit candidates who were *commissioned* as Short Service Commissioned (SSC) officers during the window between 19 April 2021 and 1 January 2022. The language across all official communications consistently refers to "*commissioned*" officers and does not introduce any qualification based on the source, iteration, or consequence of advertisement notification. It is a well-settled legal principle that where the administrative instructions are precise and unambiguous, any attempt to read in qualifications not specifically set out would amount to substitution of executive intent by interpretation, which is impermissible.

43. The fact that the applicant was issued an offer letter on 1<sup>st</sup> May 2021 and granted SSC commission on 31<sup>st</sup> May 2021, falling squarely within the expressly defined window for age

relaxation, satisfies the sole criterion set out by the authorities: the relevant date is the “date of commission,” not the advertisement notification or any antecedent act. The respondent’s contention that age benefit should be denied based on the July 2020 advertisement is not supported by the language of the three letters, which do not carve out any such restriction or create disqualifying sub-categories within the pool of officers commissioned in the defined period. The principle of administrative fairness and legitimate expectation further safeguards against such a narrow, retrospective interpretation, especially where an applicant relied upon the plain terms of multiple government communications to conclude that she would benefit from the relaxation.

44. Accordingly, viewed judicially, the only rational, lawful, and equitable decision is to direct that the applicant - having been *commissioned* during the specified relaxation window must be deemed eligible for age relaxation for Departmental Permanent Commission (DPC) purposes, regardless of the advertisement under which her process originated. To so hold is not only warranted by the express language of the governing instructions but is compelled by the overriding principle that ambiguity in government policy must be resolved in favour of the beneficiary and not to her detriment. Any contrary interpretation would introduce arbitrariness and defeat the salutary object of the relaxation clause entrenched by repeated clarificatory instructions. Thus, we answer Question No. 1 holding that

the applicant is entitled to be considered by DPC with her date of grant of SSC falling in between the two dates of 19.04.2021 and 01.01.2022 as laid down by the aforesaid DGAFMS letters discussed above.

45. In view of the aforesaid analysis, we are of the considered opinion that the answer to Question No. 3 has to be in affirmative and the applicant is entitled for her consideration for grant of FC by DPC for three times in line with the DGAFMS Amendment letter dated 19.04.2021 and subsequent letters dated 10.05.2023 followed by clarificatory letter dated 09.10.2023.

46. Therefore, we are inclined to accept the prayer of the applicant by allowing this OA, with a direction to the respondents to consider the applicant for the Departmental Permanent Commission for the relevant years, with the age relaxation benefit as set forth in the aforementioned policy letters. The process for consideration by the DPC shall be completed within four months from the date of pronouncement of this order.

47. Hence, the OA 81/2024 is allowed.

48. No order as to costs.

49. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 13<sup>th</sup> day of November, 2025.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

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

Akc/PS