

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

130.

TA 28/2023 (WP(C)No.11435/2019)

Sgt Prashant Saxena Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Ms. Garima Sachdeva, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
14.02.2025

Under section 14 of the Armed Forces Tribunal Act, applicant has filed this application and the prayer made in para 8 reads as under:

- (a) Issue a writ of Certiorari or appropriate Writ/Order/ to quash Para 43 (a) (iii) of the Promotion Policy of even letter No. Air HQ/C 40651/PA(CPC) dated 14 Jan 2015 and/or
- (b) Writ of Mandamus or appropriate Writ/ Order/direction to the Respondents to consider the Petitioner for first out of turn promotion to the next rank based on his participation in National Shooting Championship at par with other category of sports such as Football, Basketball, etc wherein the Services team are being formed and the Respondents have been granting them First Out of Turn Promotion, and/or
- (c) Pass any such other order/s which your Lordships may deem fit in the interest of justice.

2. Primarily, the applicant is claiming the benefit of a policy brought into force by the Army Headquarters of the Indian Air Force pertaining to promotion policy for Airmen and in the said policy which is available at page 108, eligibilities for out of turn promotion to sports persons are indicated. For the purpose of out of turn promotion, the criteria are laid down in para 43 which reads as under:

The eligibility conditions for out of turn promotion are as follows.:-

(a) First Out of Turn Promotion. The following category of sportsmen will be granted acting paid promotion to the next higher rank with effect from the date of qualifying in such events, irrespective of the length of service or any qualifications, however, passing of promotion examination is mandatory before conversion of said acting promotion to substantive promotion. -

(i) Sportsmen representing Services at the recognized Senior National Championships / Games.

(ii) In those disciplines wherein Services Championships are not held, but Services team are selected based on conduct of trials, viz the games of chess, cycling, wushu, fencing, archery, taekwondo, triathlon, judo, track cycling, the teams or individuals who win a Gold/Silver/Bronze medal in the National championship will be granted out of turn promotion.

(iii) In those disciplines wherein Services Championships are not held, IAF teams participate directly in Senior National Championships viz Shooting, Cycle Polo, Table Tennis, Badminton, only those individuals or teams who win a Gold/Silver/Bronze medal in the National championship will be granted out of turn promotion.

3. The applicant claims out of turn promotion by virtue of the rights said to be accrued to him under Sub-clause 3 of the said policy. It is the case of the applicant that he had participated in All India GV Mavlankar Shooting Championship, which was held in the in the year 2014 and won Bronze Medal and based on the

said policy he claims the said benefit. That apart he has filed various documents to indicate that he is an outstanding shooter and he has participated in the various events pertaining to shooting.

4. Respondents have refuted the aforesaid contentions and their objection is that to be qualified to get out of turn promotion based on the policy in question, it is imperative for the person claiming the benefit to have participated directly in Senior National Championship in the event of shooting or other contentions indicated in sub-clause 3 of para 43 and as the applicant has not participated in any Senior National Championship, he is not ~~entitled~~ ^{entitled B} to the benefit of the said policy. As far as participation of the applicant in the GV Mavalankar Shooting Championship is concerned, it is the case of the respondents that the same is not in the National Championship as indicated in the policy in question i.e. para 43 and they produce a communication dt. 05.07.2023, received by them from the Secretary of the National Rifle Association of India addressed to the Jt. Secretary, AISCB which indicates as under:

“This is to inform you that All India G V Mavalankarr Shooting Championship is a Pre-National Championship and shooter achieving Minimum Qualification Scores, as defined under 17.6 of NRAI Match Book are allowed to participate in National Shooting Championship Competition (NSCC)”.

5. Accordingly, it is the case of the respondents that the applicant does not fulfill the criteria laid down as per the policy and therefore, no benefit can be granted to the applicant. We

have considered the rivalry contentions and we find that even though the applicant has produced voluminous documents in support of his contention, but none of the documents produced by him qualifies within the criteria laid down in para 43, Sub-clause 3 ^{of the Policy} as reproduced hereinabove. For the sake of convenience, the perusal of the said clause indicates that to be eligible for out of turn promotion, applicant person has to participate in those disciplines, where the service championships are not held and the Indian Air Force team directly participated in the Senior Level Championship in the discipline of shooting, cycling, polo, Table-Tennis and Badminton etc. The core issue warranting consideration by us in this application is as to whether the applicant qualifies the criteria laid down in the said policy to claim out of turn promotion. The only document produced by the applicant with regard to winning of Bronze Medal is his participation in the GV Mavalankar Sports Championship held in the year 2014 and as is evident from the communication available on record, the said event does not fall in the category of Senior National Championship as indicated in the policy reproduced hereinabove. The applicant may be a very good shooter and may have participated in many events, however, to get the service benefit of out of turn promotion, the Contract of Service which is based on the policy brought into force by the Indian Air Force warrant certain conditions to be fulfilled which have been reproduced by us hereinabove i.e. Para 43 of the

policy. The applicant apparently does not come within the criteria laid down and therefore, this is a dire attempt by the applicant after his retirement to get the promotion even though he is not entitled to the same. The Contract of Service provides for various service benefits and it is a well settled principle of service jurisprudence that an employee is entitled to all benefits accruing to him under the Contracts of Service and the Rules and Regulations governing the Contract of Service. As far as Contract of Service for grant of out of turn promotion is concerned, it stipulates certain conditions based on which a right can accrued to the employ to claim out of turn promotion. The issue before us clearly indicates that even though the applicant may have a right to seek out of turn promotion, but he does not fulfill the criteria and the qualification prescribed in the policy for getting out of turn promotion. Keeping in view the aforesaid, we find no merit in the case of the applicant. We dismiss the application as it does not warrant any consideration and no legal right exist in favour of the applicant to claim out of turn promotion based on his participation in the event mentioned by him for the simple reason as indicated hereinabove. Accordingly, the petition is dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)