

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

**O.A. No. 1709 of 2019**

**In the matter of :**

**Ex Sub Surya Deo Prasad**

**... Applicant**

**Versus**

**Union of India & Ors.**

**... Respondents**

**For Applicant : In person**

**For Respondents : Shri Satya Ranjan Swain, Advocate**

**CORAM :**

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

**ORDER**

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

- “(i) Call for the entire record of Honorary Commission awarded on the occasion of 15.08.2018 and 26.01.2019 of Subedars of EME Corps for perusal by the Hon'ble Tribunal. And/or grant Honorary Commission i.e. Lieutenant and Captain along with all consequential benefits.***

- (ii) ***Direct respondent to pay the due arrears and consequential benefits with interest @ 12% per annum if the applicant is make up in the merit for award of Honorary Commission.***
- (iii) ***Pass any other order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."***

### **BRIEF FACTS**

2. The applicant was enrolled in the Army on 15.03.1989 and was discharged from service on 31.03.2019. It is the case of the applicant that he was due for consideration for the grant of Honorary Rank of Lieutenant/Captain for the year 2017-18; however, despite having an excellent service record, he was not considered for the said honorary rank. Prior to consideration, the Master Sheet of the applicant was forwarded to the unit authorities by the Records Office vide letter No. 1736/ID-18/T1B/CA4/TC-86 dated 30.05.2017 for verification of service particulars. The applicant has rendered more than 18 years of service in High Altitude/Field Areas and possesses an exceptional service profile. According to the applicant, although he was fully eligible for grant of Honorary Commission as compared to his batchmates who were granted

the Honorary Commission, yet his case was not considered by the respondents without providing any reasons therefor.

3. It has been stated that the respondents have acted in an arbitrary and discriminatory manner by depriving him of due consideration despite his excellent service record and fulfilment of all criteria. As stated in the OA, certain Junior Commissioned Officers (JCOs) who had comparatively lower service profiles—namely (a) JC-765927F Sub SKT (H/Lt) Mahender Singh, (b) JC-766075K Sub SKT (H/Lt) Jai Bhagwan, (c) JC-76080P Sub SKT (H/Lt) Sanjeet Kumar Jha, (d) JC-766079A Sub SKT (H/Lt) M.J. Debnath, and (e) JC-766081X Sub SKT (H/Lt) Lalan Pandit, were granted the Honorary Rank of Lieutenant, whereas the applicant, despite having better profile than all of them, was denied similar consideration.

4. A representation dated 15.03.2019 was made by the applicant requesting for examination of his case for grant of Honorary Commission, but the respondents did not respond thereto, which, according to the applicant, is arbitrary, unjust, and unreasonable. The applicant alleges that significant aspects of the applicant's service, such as his extensive field-

area service, medals/awards, army courses and other achievements, were not properly taken into consideration by the respondents. It is further stated that the Commanding Officer and the Records Office are responsible for maintaining complete and updated service records; the service records are necessary for promotions and consideration for honorary ranks; due to incomplete and improperly maintained records, his case was not assessed correctly; and that had had the service record of the applicant been updated accurately and properly, he would have secured a place in the merit list for grant of Honorary rank. The applicant has thus filed the present OA so that his service record may be properly compiled and his points counted accurately as compared to the persons who were granted Honorary rank.

### **CONTENTIONS OF THE PARTIES**

5. The applicant, appearing in person, submitted that the denial of Honorary Commission without properly evaluating the applicant's case is arbitrary, discriminatory, illegal and violative of Article 14 of the Constitution of India; that the respondents have failed to appreciate that the applicant was similarly situated, or even more meritorious, than the officers

who were selected, and their refusal to consider his case violates the principles of equality and fairness. The applicant then referred to the judgment of the Hon'ble Supreme Court in **Praveen Singh Vs. State of Punjab & Ors. [(2000) 8 SCC 633]** wherein it has been held that arbitrariness is antithetical to law and opposed to reasonableness, and although arbitrariness cannot be defined with mathematical precision, it must be assessed on the facts of each case. The present case clearly reveals arbitrary exclusion of the applicant. He further added that in the present case, there is a clear indication that the respondents have acted arbitrarily and discriminatorily in not considering the case of the applicant properly.

6. The applicant further referred to the judgments of the Hon'ble Supreme Court including **Amita Vs. Union of India [(2005) 13 SCC 721]**, to submit that the respondents' conduct is contrary to the principles laid down by the Hon'ble Apex Court in the above judgment wherein it was held that Article 14 ensures equality before the law and equal protection of the laws, prohibiting discrimination among persons who are similarly situated; that the Court emphasized that equals must be treated alike, and Article 14 imposes a positive

obligation upon the State to ensure non-discriminatory treatment; and contended that the respondents committed grave error in acting contrary to the law laid down by the Hon'ble Apex Court and failing to treat the applicant at par with those who were granted honorary ranks, the respondents have violated the constitutional mandate of equality. He further submitted that the JCOs with lower service profiles were granted Honorary ranks while the applicant was not considered for that due to incomplete and imprecisely maintained service records and, therefore, the action of the respondents is liable to be set aside as arbitrary, unreasonable and the applicant may be granted reliefs as prayed for in the present OA.

7. *Per contra*, the learned counsel for the respondents submitted that all admissible retiral benefits including death-cum-retirement gratuity, service pension and other benefits have already been granted to the applicant; that with regard to the grant of Honorary Commission, the Record Office is responsible for preparing the 'Recommendation Form' and 'Data Sheet' in respect of all eligible JCOs for consideration on Republic Day and Independence Day, based on the

recommendations received from the CO/OC Unit; that all required parameters indicating the applicant's service profile recorded in the Sheet Roll of the applicant were duly incorporated in the 'Recommendation Form', which was then forwarded to the higher authority through the concerned Headquarters for consideration by the Integrated Headquarters of MoD (Army), CW-2, for Independence Day 2018 (Two Chance) and Republic Day 2019 (Last Chance); then the Integrated Headquarters prepares the final merit list based on various parameters such as field service, medals, commendation cards, ACRs, course gradings etc., however, as the applicant did not find place in the merit list, he was not granted Honorary Commission.

8. The learned counsel submitted that through this OA, the applicant sought for production of the entire Honorary Commission-related records for Subedars of the EME Corps on 15.08.2018 and 26.01.2019 and further sought for grant of Honorary Lieutenant and Captain to him with consequential benefits, however, since the applicant did not make it to the overall merit list published by Integrated Headquarters of MoD (Army), he was not considered for grant of Honorary

Commission. The learned counsel further submitted that the RTI application dated 15.03.2019 of the applicant was duly replied to vide EME Records letter No. 2708/RTI Cell/417 dated 30.03.2019.

9. The learned counsel further submitted that all field and CI operation services, medals, and commendation cards received from HQ LRW 56 Armd Regiment vide letter No. 604/LRW dated 02.01.2018, duly signed by the applicant and countersigned by the Commandant, were properly reflected in his 'Recommendation Form', then the final merit list is prepared on a merit-cum-vacancy basis considering all parameters like field/HAA/CI Ops service, medals, ACRs, commendation cards, instructor tenures at Category 'A' establishments, and course gradings such as Distinction, AX(I), A(I), Q(I), AX, A, BX(I), BX etc. and the JCOs referred to by the applicant may be having superior service profiles, therefore, they were granted Honorary Commission.

10. The learned counsel further added that the Honorary Commission is awarded purely on merit-cum-vacancy basis after taking various necessary parameters earned by a JCO;



that since the applicant did not meet the merit threshold, he was not selected for grant of Honorary Commission and further as per records, the applicant did not complete 18 years of High Altitude/Field Area service, making his claim incorrect; and that the action of the respondents in question has been strictly in accordance with the policy in vogue. The learned counsel, therefore, prayed for dismissal of the OA.

### **ANALYSIS**

11. We have heard submissions made by the learned counsel for the parties and have also gone through the records placed on record.

12. For better adjudication of the issue in question and in order to consider the validity of the claim made by the applicant in the present OA, when the matter was listed on 04.11.2025, the respondents were directed to keep available all the Board proceedings wherein the case of the applicant for grant of Honorary Commission was considered and also the file processing the claim of the applicant for grant of Honorary Commission wherein the reasons for not grant of Honorary Commission to him have been recorded. On the next date i.e. 18.11.2025, the records were examined and the respondents

have also filed details of the consideration and grant of Honorary Commission in respect of the applicant and others. The applicant has also submitted his written submissions of the case.

13. Having examined the records relating to grant of Honorary Commission submitted on behalf of the respondents, we find that the applicant's case was duly considered by the respondents along with other batchmates. The respondents have given marks to the applicant and the other JCOs taking into consideration their field service, HAA-I & HAA-II, CI in Fd & CI in Peace & Mod Fd and also ACR as well as receipt of medals, commendation cards etc. in Independence Day-2018 (First Chance) and Republic Day-2019 (Last Chance) and after evaluating the marks obtained by the JCOs, it has been noticed that the applicant had scored much lower than the cut-off marks in Independence Day-2018 (First Chance) and Republic Day-2019 (Last Chance). The respondents have also indicated the details of the last person scoring more than the applicant who was granted Honorary Commission. It is also noted that the marks have been decreased during the Last Chance due to revision of policy

proportionately and each JCOs marks were decreased including the applicant. The respondents have given details of the marks obtained by the applicant as well as the six JCOs (batchmates) whose names were mentioned by the applicant who were granted Honorary Commission. The details of the cut-off numbers and the marks obtained by the applicant as well as the last JCOs who were granted Honorary Commission as also the number of persons between the applicant and the last person selected have been tabulated as follows:

| <b>Occasion of Honorary Commission</b>      | <b>Cut-off marks</b> | <b>Marks Obtained by the last person selected</b> | <b>Marks obtained by the applicant</b> | <b>No. of persons between last persons awarded Hony. Commission and the applicant</b> |
|---|----------------------|---|--|---|
| <b>Independence Day 2018 (First Chance)</b> | <b>45</b>            | <b>45</b>   | <b>39</b>                              | <b>62</b>   |
| <b>Republic Day 2019 (Last Chance)</b>      | <b>34</b>            | <b>34</b>   | <b>27</b>                              | <b>99</b>   |

14. The above details clearly indicate that the applicant had scored lower marks than the prescribed cut-off marks or the marks obtained by the last person who was granted Honorary Commission and, therefore, the applicant could not find a

place in the merit list. There is no element of discrimination towards the applicant as the JCOs who were granted the Honorary Commission had secured higher marks than the cut-off marks and as per the availability of vacancies, they were granted the Honorary Commission.

15. The grant of Honorary Commission in the ranks of Lieutenant and Captain is regulated strictly in accordance with the quota as prescribed in Para 177 of the Regulations for the Army, 1987. The quota in respect of Honorary Lieutenant is prescribed as 12 for every 1000 JCOs and for Honorary Captain, one for every four Honorary Lieutenants. In view of this, merit evaluated based on the eligibility criteria plays a prominent role in deciding the grant of such Honorary Commissions.

16. In the instant case, the applicant's length of service, service profiles/stations, ACRs, medals and LMC have also been taken into consideration and marks have been awarded against those parameters. However, the total marks obtained by the applicant fell short of the cut-off marks on both the occasions of grant of Honorary Commission. Therefore, we find no merit in the applicant's claim that the respondents

have maintained the records inaccurately and on the both the occasions of grant of Honorary Commission, the applicant could not secure the requisite marks for selection in the merit list. Therefore, the respondents are justified in awarding of Honorary Commissions to other JCOs, who had secured higher marks as compared to the applicant and on the basis of the lesser marks obtained by him and not finding place in the merit list, the applicant was not granted the Honorary Commission.

**CONCLUSION**

17. In view of the above, O.A. No. 1709 of 2019 is dismissed being devoid of merit.

18. There is no order as to costs.

Pronounced in open Court on this 6 day of January, 2026.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

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