

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

OA 2760/2025 WITH MA 5784/2025

Nb Sub Tirri Gopi ... **Applicant**
Versus
Union of India & Ors. ... **Respondents**

For Applicant : Mr. Rajiv Manglik, Advocate
For Respondents : Mr. R S Chillar, Advocate

CORAM :

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

ORDER

This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant being aggrieved by his non-consideration for the grant of Permanent Commission in the Special List Cadre of AO (MES) for the selection made against the year 2024 and prays for the following main reliefs:-

- (a) *To declare the action of the respondents as unjust, arbitrary and illegal; and*
- (b) *To call for complete record of the matter and peruse the same; and*
- (c) *To quash and set aside impugned order dated 07 Jul 2025; and*
- (d) *To declare the applicant's candidature for PC (SL) AO (MES) cadre and direct the respondents to send the applicant for necessary training; and*
- (e) *To pass any such further order or orders, direction / directions be passed so as to this Learned Tribunal may deem fit and proper in accordance with law.*

along with the following interim relief:

To direct the respondents to take a final decision on Note number 13642/PC (SL) – 2024/7/E1A initiated on 29 Aug 2025 before the commencement of the training at IMA and to allow the applicant to join the training at IMA in the course starting on 15 Sep 2025.

2. The applicant was enrolled in the Indian Army (Corps of Engineers) on 16.06.2009. Subsequently, the applicant served at HQ 138 Works Engineer (Leh) from 06.06.2018 to 17.10.2020, for a period of 2 years, 4 months and 11 days. Thereafter, he was posted to the Engineer-in-Chief's Branch, Army Headquarters, wherein he served from 18.10.2020 to 26.11.2024, for a period of 4 years, 1 month and 9 days. With effect from 27.11.2024, the applicant has been posted to GE (I) Dockyard Maintenance, Visakhapatnam.

3. In the month of January, 2024, the applicant applied for the Permanent Commission (Special List) - 2024 selection, wherein the applicant opted only for the Record Officer (RO) category. Pursuant thereto, he appeared before No. 34 Services Selection Board (34 SSB) for interview which commenced from 10.05.2025.

4. Prior to declaration of the final results, the applicant submitted a representation dated 12.06.2025, requesting for his consideration in the Administrative Officer (AO) Cadre (MES). In the said request, the applicant stated that he had subsequently

become aware that period of service rendered at the Engineer-in-Chief's Branch, Army Headquarters, is treated as service in an MES unit. On the immediate next day, i.e. 13.06.2025, the applicant's unit GE (I) Dockyard Maintenance had forwarded and recommended the said request.

5. However, the applicant's request for consideration under the AO Cadre was rejected by Respondent No. 3 vide communication dated 07.07.2025 on the ground that changes to category preferences cannot be permitted after submission of the application.

6. Subsequently, the results of the PC (SL)-2024 selection were published on 22.08.2025, wherein the applicant had secured merit position 54 in the RO category. However, since there were only 27 notified vacancies in the RO category, the applicant could not be selected and was merited out as a consequence of the same.

7. Aggrieved by the rejection of his request for consideration under the AO Cadre and the consequential denial of Permanent Commission, the applicant has filed the present Original Application seeking the abovementioned relief.

SUBMISSIONS ON BEHALF OF THE APPLICANT

8. Learned counsel for the applicant submits that the present Original Application raises a narrow but significant issue concerning denial of consideration for grant of Permanent Commission (Special List) in the Administrative Officer (AO) Cadre of the Military Engineer Services (MES), despite the applicant fulfilling the prescribed eligibility criteria. In this regard, it is submitted that the impugned action of respondents, whereby the same is denied, is arbitrary and contrary to settled principles governing service jurisprudence.

9. It is contended by the learned counsel for the applicant that the applicant satisfies the essential eligibility condition of possessing a minimum of five years' service in MES units. Though the applicant had initially applied under the Record Officer category under the *bona fide* belief that he had only two years and four months of MES service, it subsequently came to his knowledge that his posting at the Engineer-in-Chief's Branch, Army Headquarters from 18.10.2020 to 26.11.2024 is officially treated as an MES unit. Therefore, it is the applicant's contention that when this period is combined with his service at HQ 138 Works Engineer (Leh), the total period of service rendered

amounts to more than six years of MES service, which exceeds the mandatory eligibility threshold.

10. Learned counsel for the applicant submits that the rejection of the applicant's request to be considered for the AO Cadre is founded solely on a rigid procedural objection that category preferences cannot be altered after submission of the application. It is urged by the learned counsel for the applicant that such an approach elevates form over substance and results in manifest injustice. The learned counsel for the applicant further states that the applicant had successfully cleared the common SSB interview and written examination applicable to all Special List categories, wherein he stood at merit position 54. As such, it is averred that the denial of consideration on a purely technical ground, particularly where the applicant was under a *bona fide* misconception regarding the classification of his service at Army Headquarters, violates the principles of natural justice and fair play.

11. From the standpoint of organisational interest, it is stated by the learned counsel for the applicant that the AO Cadre of MES is facing an acute shortage of officers with a deficiency recorded at over 90% as only eight officers are held against an

authorised strength of eighty-four. It is further stated that for the PC (SL) 2024 selection, only two out of the earmarked four vacancies were filled for the AO Cadre, leaving the two vacancies unutilised. As such, it is stated that the Engineer-in-Chief's Branch itself has recommended consideration of eligible candidates, including the applicant, to mitigate functional difficulties arising from the aforementioned acute shortage. It is, thus, the applicant's contention that granting consideration to the applicant would advance the administrative efficiency rather than prejudicing the same.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

12. Learned counsel for the respondents submits that the present Original Application is devoid of merit and is liable to be dismissed, as the applicant seeks consideration for a category in which he has never applied in accordance with the governing policy. In this regard, it is stated that the selection process for grant of Permanent Commission (Special List) - 2024 is governed by Standing Instructions issued by ADG MP-2 dated 17.01.2007, which have statutory force for the purpose of regulating the selection.

13. Learned counsel for the respondents highlights that Paragraph 10 of the aforementioned Standing Instructions clearly stipulates that while there is no bar on applying for more than one category, a candidate must indicate all choices in one application itself (in order of preference). It is the case of the respondents that the applicant has admittedly exercised his option only for the Record Officer (RO) category; and that his application was processed strictly in accordance with the preference duly indicated by him. It is further highlighted by the learned counsel for the respondents that there is no enabling provision under the policy permitting addition or alteration of category preferences at a subsequent or belated stage.

14. Learned counsel for the respondents submits that the onus of submitting a complete and accurate application form rests entirely upon the candidate. As such, the respondents cannot be faulted for processing the application on the basis of the information voluntarily furnished by a candidate, i.e. the applicant in the instant case. In this regard, the learned counsel for the respondents emphasises that permitting changes after the submission of an application would compromise the integrity of the selection process and defeat the objective of maintaining

uniformity and fairness among all candidates. With respect to the facts of the present case before us, the learned counsel for the respondents submit that the applicant was duly considered in the RO category and was merited out, as he had secured 54th position as against 25 notified vacancies. As such, it is further the case of the respondents that failure to secure selection in the chosen category cannot entitle the applicant to seek consideration in another category as a matter of right.

15. Learned counsel for the respondents further submits that granting the relief sought would be inherently unfair to other similarly situated candidates. In this backdrop, it is pointed out that 50 candidates, who had applied for the RO category, were also merited out and could not be inducted. As such, it is contended by the respondents that extending a special dispensation solely to the applicant would be discriminatory and violative of the principle of *inter-se* merit. It is further contended by the respondents that permitting consideration of candidates for categories they did not originally opt for would disturb the merit positions of candidates who correctly applied for those categories in compliance with the extant policy.

16. Learned counsel for the respondents further submits that the policy of not permitting alteration of choices after submission of applications is consistent with the practice followed in other national-level competitive examinations, such as those conducted by UPSC (NDA, CDS) and SSC (CHSL, CGL). It is stated that these examinations permit exercise of options only once, and no post-submission changes are allowed; and the same is to ensure a level playing field for all aspirants.

CONSIDERATION AND ANALYSIS

17. We have carefully considered the facts and submissions advanced by the respective counsel, along with the materials produced before us.

18. We observe that the selection for grant of Permanent Commission (Special List) is governed by Standing Instructions issued by ADG MP-2 dated 17.01.2007, which regulate not only the eligibility and application procedure but also the selection for various Special List categories. Paragraph 10 of the said instructions read as under:

"10. Applications should be submitted in the form attached to AI 85/74. In addition, candidates should also furnish the information in Part-I and II of the form 'Record of Particulars' as per specimen attached as Appendix 'D' and placed on top of the application form. There is no bar for

applying to more than one category provided the applicant meets the laid down eligibility conditions. No separate application is required for each category. However, the choices should be written by the candidate himself in order of preference, in one application only."

19. A bare perusal of the aforementioned paragraph from the extant instructions clearly portrays that while a candidate is not barred from applying in multiple categories, in which the choice (in the order of preference) should be written by the candidate in one application only. However, as has been admitted by the applicant himself, he has exercised his option only for the Record Officer (RO) category – as per which his application was subsequently processed by the respondents.

20. It is, however, pertinent to note that only four vacancies were notified for PC (SL)-2024 in the Administrative Officer (AO) Cadre (MES), out of which only two candidates were selected – leaving two vacancies unutilised.

21. It is brought to our notice that the Case Note dated 29.08.2015, initiated by the Engineer-in-Chief's branch, does record an acute shortage of officers in the AO Cadre. The same note also records the recommendation that the applicant along with two other similarly placed individuals be considered against the unutilised AO vacancies.

22. Being cognizant of the aforesaid fact along with the meritorious selection of the applicant by the Service Selection Board, this Tribunal, after having considered the urgency of the matter as well as the potential for irreparable harm to the applicant's career, has granted an interim relief to the applicant. The relevant paragraphs from the interim order dated 13.10.2025, are reproduced as follows:

"11. We must note while considering a plea for grant of interim relief, the Court is required to be satisfied of the existence of three well-settled conditions, namely: (i) that a strong prima facie case is made out in favour of the applicant; (ii) that irreparable injury is likely to ensue to him if such relief is denied; and (iii) that the balance of convenience tilts in his favour.

12. On the question of a strong prima facie case, the applicant has demonstrated an arguable case that his bona fide service experience ought to have been counted for the purposes of cadre option, and that his delayed option submission was due to genuine unawareness rather than mala fide intent, or an after thought, clearly showcasing it to be a 'mistake of fact' which can be excused rather than 'mistake of law'. This gives rise to a strong prima facie case warranting consideration.

13. Regarding irreparable injury, the applicant's request for inclusion in the current training session is founded on the apprehension that denial thereof would cause loss that cannot be adequately compensated later. Given the limited vacancies and consequential impact on seniority and career progression, the risk of irreparable harm stands established, noting the pendency of the cases in this Tribunal leading to the military prospects of the applicant being harmed, if the interim relief is not granted, because if we find that the applicant is not entitled at the time of final hearing, the position can be restored in favour of Respondents, which vice versa would not be possible.

14. With respect to the balance of convenience, permitting the applicant to join the training does not occasion prejudice to the respondents or adversely affect the rights of other candidates, specifically when the two vacancies are still vacant. Thus, the balance of convenience tilts in favour of the applicant.

15. As far as contention of the respondent that the applicant cannot be allowed to join midway in the course, we find unable to subscribe to this submission in view of the judgement of Hon'ble Delhi HC in *Khushbu Sharma v. Union of India* [2013:DHC:2735-DB] wherein the petitioner was permitted to join the course midway in the interest of justice, we are of the considered view that it possesses appropriate powers to mould the interim relief in appropriate cases, Accordingly, in the peculiar facts and circumstances of the present matter, this Tribunal is empowered to exercise its discretionary jurisdiction to ensure that the cause of justice is duly advanced and not defeated by mere technicalities.

16. In view of the foregoing, holding that the conditions for grant of interim relief are satisfied, we are of the considered opinion that the applicant shall be permitted to join the training for the Administrative Officer Cadre pending final adjudication."

23. The above interim directions having already been issued, the position that emerges is that this Tribunal has, at the *prima facie* stage, accepted that the applicant's exclusion from the AO (MES) cadre stemmed from an inadvertent oversight and a *bona fide* mistake of fact concerning the classification of his service at the Engineer-in-Chief's Branch. Since such service is officially reckonable as MES service, the applicant satisfied the eligibility criteria at the relevant time, and his subsequent representation constituted a rectification of a factual error rather than an

afterthought which in our opinion was a 'mistake of fact' rather than mistake of law. Thus, this Tribunal has already granted relief to the applicant, even when the choice was changed by the applicant subsequent to him filing his application.

24. While dealing with a similar issue in OA 2568/2023 bearing title ***RHM (TIR) Munnu Singh v Union of India and Ors***, this Tribunal has adopted a holistic view, but at the same time has refrained from commenting upon the rigidity (or lack thereof) of the existing policy framework. The relevant excerpts from the said order is reproduced as under:

"18. We cannot shy away from the fact that the AAD is under shortage of the PC (SL) officers, with the applicant being one of the qualified PC (SL) officer and Para 5 of the aforesaid letter casts a responsibility on the Cdrs and COs to encourage more JCO/OR for SCO and PC (SL), thereby, leaving enough room for a one time relaxation, especially when the Corps is undergoing shortage of TEO officers, with no compromise on the qualitative aspect, with the applicant being fully qualified through the same process.

19. In view of the aforesaid discussion, we are of the opinion that Respondents ought to have taken a holistic view on the issue which is not only beneficial for the career growth of the applicant, but is also in betterment of the organisation and that a compassionate view is also required to be taken on the issue.

20. Therefore, without any comment upon the existing policy framework before us, we direct the respondents to consider afresh the application of the petitioner seeking grant of PC (SL) in AAD (TEO) category, in the background of above discussion. The respondents are directed to give effect to such reconsideration within a period of 30 days from the date of pronouncement of this order, and convey the same to the applicant."

25. After the issuance of the abovementioned interim orders in the instant case, and subsequent execution of the same by the respective respondents, the applicant was provisionally inducted into the PC(SL) course at IMA Dehradun. However, and as has been brought out by the respondents in their counter affidavit, the applicant has already missed 8 out of 12 weeks of the mandatory training – which amounts to approximately 66% of the total duration.

26. In this backdrop, it is apposite to refer the Standard Operating Procedure governing the PC(SL) Orientation capsules. As per the clauses 12(b) and 12(g), a candidate can only be granted leave on “extreme compassionate grounds” upto a maximum period of seven days, and missing the training for fourteen working days or more will make the trainee liable for withdrawal. Furthermore, clause 27(b)(a) absence beyond seven days triggers the mandate to relegate the concerned candidate to the next course. The same is also reproduced herein for the ease of reference:

"Course Organisation

12. The capsule will be conducted under the supervision of an Officer from the Department of English He will monitor the individual and group performance of the course and will be

responsible for giving periodic feedback to the Head of Department of English and the Chief Instructor To ensure the training efficacy of the course the following aspects will be ensured:-

- (a) **Counseling and Guidance** OIC course in consultation with Head of Department of English will be responsible for administering formal counseling and guidance duly recorded in writing to individual under performers He will recommend to the Head of Department of English the corrective measures for underperformers and implement his directions. Return to unit (RTU) cases will be recommended
- (b) **Leave** No candidate will be granted leave during the capsule However, Commandant of AEC Training College and Centre, Pachmarhi may grant leave on extreme compassionate grounds up to a maximum period of seven days.
- (c) **Feedback** To elicit regular feedback, a 'Dialogue Journal' will be maintained in the class room and students will be encouraged to air their opinions, suggestions and problems through this journal. The OIC Course will be responsible for going through the journal daily and putting up relevant points to respective authorities
- (d) **Documentation** The candidates will be required to maintain the following documents -
- (i) Vocabulary Notebook
 - (ii) Guided Writing Notebook
 - (iii) Class Notebook
 - (iv) News Transcription Notebook
- (e) They are reqd to possess a good monolingual dictionary and to subscribe to at least one English language Newspaper
- (f) **PT and Firing Tests** The candidates will be tested in BPET, PPT and firing during the eighth week of training The results in these tests will be compiled and forwarded to MA, by AEC Trg College and Centre Pachmarhi. Failures in these tests will appear for a re-test at IMA at the end of four weeks' Orientation Capsule there
- (g) **Withdrawal** The trainees will be liable for withdrawal from the capsule on disciplinary/ medical grounds. Missing of training for fourteen working days or more on any ground will make trainee liable for withdrawal. IHQ of MoD (Army) will be the approving authority for all withdrawal cases for

which AEC Trg College and Centre Pachmarhi will forward the cases through HQ ARTRAC.

27. Withdrawal Relegation The trainees will be liable for relegation/ withdrawal from the Orientation Capsule on failing to achieve minimum standards as per Paragraph 21 above or on disciplinary medical grounds

(a) Withdrawal

(i) A trainee will be withdrawn on medical grounds if the medical authorities are of the opinion that he will be not be able to continue further training

(ii) A trainee will be withdrawn on disciplinary grounds as per HQ ARTRAC Administrative Instructions as applicable to GCs of IMA. Provisions of the Administrative Instructions will be complied with.

(iii) Authority for withdrawal will be IHQ of MoD (Army) for which the case will be forwarded to HQ ARTRAC duly recommended by Commandant, IMA.

(b) Relegation Trainees will be relegated and RTU and asked to join the next course on the following grounds :-

(a) Missing training for seven working days or more on any ground

(b) Not meeting the required standards in the final test as per Paragraph 21 above. Those trainees who fail in the mid term tests will be warned for relegation and HQ ARTRAC and IHQ of MoD (Army), MT Dte will be accordingly informed.

(c) Auth for relegation will be Commandant, IMA. HQ ARTRAC and IHQ of MoD (Army), MT Dte will be kept info of the same."

27. It is noteworthy that such an exhaustive set of Standard Operating Procedure has been put in place to ensure that the efficacy of the training is preserved, and the orientation capsule ultimately imparts an all-round training in a holistic manner – so

as lead the trainee candidates in achieving the requisite standards. Even if it is accepted that the applicant has successfully cleared all the requisite tests, it must be observed that completion of the prescribed holistic training, in accordance with the approved syllabus, is mandatory. Such comprehensive training is essential to equip an officer trainee with the requisite competence, skill, and responsibility to effectively discharge the duties attached to higher ranks within the organization. There cannot be a short cut to the duration and quality of training thus imparted towards fulfillment of designated impending role in future assignments.

28. In the instant case, the applicant has already missed 8 out of 12 weeks of the mandatory training, i.e. much more than the permissible days of leave during the training period. Thus, as per the extant policy in place, the applicant ought to have been asked to join the next batch.

29. While the respondents, in some previous instances, might have permitted/accommodated candidates in different courses and categories post the declaration of results, doing so does not inherently accrue an automatic right in favor of the applicant to be considered in a separate category – especially when the

applicant himself has committed an error in his application and has approached for requesting relief only after considerable delay on his part.

30. While it is trite to not ignore the fact that the applicant does fulfill the eligibility criteria and has secured merit in the common selection process, at the same time, however, this Tribunal cannot allow the applicant to continue his training by mandating respondents to conduct some exclusive/special training for one individual candidate – and thereby, leading to a (judicial) rewriting of the governing instructions. Granting such a relief would not only be unfeasible but would also go against the integrity of the training norms which is essential to maintain the efficacy of the training as well as uphold the institutional discipline.

31. In such circumstances, this Tribunal is not persuaded to adopt a lenient view that may inadvertently set an unhealthy precedent to the effect that substantial completion of coursework alone would suffice to meet the mandatory training requirements. Such an interpretation would dilute the standards contemplated under the governing framework and defeat the very purpose underlying the prescribed tenure of training. No exception,

therefore, can be carved out in favour of the applicant. Accordingly, the applicant is directed to undergo the next available course, and upon successful completion thereof, he shall be eligible for commissioning in accordance with the applicable rules.

32. Before parting, it is apposite to note that the last date for submission of applications for grant of Permanent Commission (Short List) in the RO and AO categories was 30.05.2024. The applicant submitted his representation seeking consideration under the PC (SL) AO category only on 12.06.2025, after a delay of more than one year. Though the delay is considerable, the same has been condoned by this Tribunal having regard to the applicant's bona fide lack of awareness of the relevant factual position and in view of the peculiar circumstances obtaining in the case. Such condonation shall not be construed as recognition of any vested or indefeasible right in favour of the applicant.

33. Thus, considering the aforesaid (i.e. the meritorious selection of the applicant by the Service Selection Board alongside the administrative/practical hurdles), we direct that subject to the applicant fulfilling all other conditions, a seat has to be rese

PC(SL) course at IMA Dehradun. Doing so would ensure that not only the training policy is adhered to in its essence and spirit, but there would also be no irreversible consequence on the applicant's career. The same would be in line with the organisational requirement, alongside meeting the aspirations of the applicant. We clarify that after the successful completion of the training, the applicant would be deemed to have been promoted with effect from the date of his subsequent commissioning, and all consequential benefits would accrue to the applicant with effect from the said date.

34. In view of the above, the O.A. is accordingly disposed of.

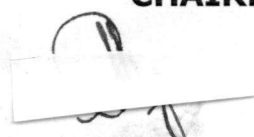
35. No order as to costs.

36. The pending miscellaneous application(s), if any, stand disposed of accordingly.

Pronounced in the open Court on this ~~20~~ ²¹ day of March 2026.

21st day of March 2026.
RJC

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**


**[LT GEN C.P. MOHANTY]
MEMBER (A)**

Akc