

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

OA 3489/2024

Sgt Vikram Singh Baloria Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Raj Kumar, Advocate
For Respondents : Mr. S.S. Sinha, Advocate

CORAM

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

ORDER

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant calls in question tenability of the impugned order (Annexure A-1) dated 14.08.2024 whereby extension of service after completing the original tenure of service is being denied to the applicant.

2. The applicant was enrolled in the Indian Air Force (IAF) on 28.09.2004. As per the service rule and the contract of service, the initial period of engagement of the applicant was 20 years which was extendable up to the age of 57 years subject to the applicant's fulfilling the conditions mentioned in the policy as stipulated by the IAF from time to time and the procedure contemplated in AFO 21/2014 (Annexure A-2). The applicant

is holding the rank of Sgt in the IAF and having completed his initial period of engagement, i.e., 20 years, which was to expire on 30.09.2024, applied for extension of service through the Competent Authority in March, 2023. The same was examined by the Competent Authority in accordance with the policies and the stipulations contended in AFO 21/2014 and vide order dated 19.09.2023, the same was rejected on the ground that extension of service of the applicant was examined at the appropriate level and it was not approved by the Competent Authority on account of the applicant not passing the promotional examination for the next higher rank. The applicant was, thereafter, discharged from service on issuance of the impugned order dated 28.07.2023. However, after the Discharge Order was issued in respect of the applicant, the applicant is said to have passed JWO promotion examination in June, 2024, and therefore, on 03.07.2024, a recommendation was made by the Competent Authority to grant him extension of service. The same was, however, rejected on 14.08.2024 and the applicant has been discharged from service w.e.f. September, 2024, and challenging the same, this OA has been filed.

3. Learned counsel appearing for the applicant argued that under the provisions of AFO 21/2014, the minimum criteria

required to be fulfilled for grant of extension, as stipulated in AFO 21/2014, read as under:

- (a) Service requirement
- (b) Willingness for extension of engagement
- (c) Passing promotion examination
- (d) ACR/ Appraisal Reports for the last seven years
- (e) Medical Fitness
- (f) Conduct Records
- (g) Suitability for extension
- (h) Certificate for undertaking.

4. It is stated that the applicant fulfills all these conditions, he meets all the criteria and after he cleared the examination, he was recommended to be granted extension but the same has been denied to him by the Competent Authority without any just cause or reason. Learned counsel for the applicant argued that, now, from the counter affidavit filed by the respondents it seems that the respondents have denied grant of extension to the applicant on the ground that while in service, he was subjected to imposition of a punishment of censure/severe displeasure and because of the same, the applicant is being denied extension. It is argued that the censure/severe displeasure to the applicant was imposed and conveyed in the year 2018, i.e., more than six years back and this censure having outlived its

period cannot be a ground for denying extension. It is argued that the severe displeasure imposed upon the applicant in the year 2018 cannot come in the way of the applicant in denying him extension of service as per the policy of the Ministry of Defence applicable to the IAF, the severe displeasure is now applicable only for a period of 01 to 03 years and the severe displeasure having outlived its period of enforceability much before the case of the applicant was considered for grant of extension in the year 2024, the same could not be the reason for denying extension of service.

5. Learned counsel for the applicant emphasized that initially when extension was denied to the applicant, the respondents came out with a case that the applicant had not passed the promotion examination for the next higher post but now they have taken a different ground with regard to severe displeasure/censure which is not tenable in law. Accordingly, he argued that the applicant is entitled to grant of extension in service and in denying the same, the respondents have committed a grave error.

6. Respondents submitted that the provisions for grant of extension is governed by the Air Force Instructions (AFI) amended from time to time and as of now, extension of service of the applicant is governed by the AFI 01/2019 which

clearly lays down the terms of engagement as 20 years and thereafter, extension is to be granted to eligible Airmen on their submission of a willingness subject to requirement of the service. Learned counsel for the respondents referred to Para 4(a) of the AFO 21/2014 and the same reads as under:

“Service Requirement. Extension of service beyond the initial term of engagement cannot be claimed as a matter of right. It shall be at the discretion of Air HQ or such other authority, as may be specified by Air HQ to grant or deny extension of service. Grant of extension or its denial shall depend on the requirements of the service and also the suitability of the airmen seeking such extension. The methodology for assessing the service requirements will be formulated from time to time with the approval of ACAS (PA & C) at Air HQ.”

7. It is the contention of the respondents that grant of extension is not a matter of right nor is the IAF obliged to grant extension. Extension beyond the initial period of engagement is granted only to the employees in accordance with the policy contained in Para 4(a) of the AFO 21/2014 which is already considered by this Tribunal and it stipulates requirement of passing of the promotion examination/training course and he further invited our attention to the conduct sheet of the applicant and Para 7 of the AFO 21/2014 which reads as under:

“Extension of Engagement in Certain Specific Case. Cases for extension of engagement in the following specific cases will be referred to Air HQ by AFRO for a final decision with specific remarks of AOC, AFRO along with brief facts of the case in duplicate, application of the airman and extract of conduct sheet.

(a) Airmen who had undergone PRCs of duration less than 180 days.

(b) Airmen who have not been categorized/ declared potential/ habitual offenders but have one or more Red or more than one black punishment entries in the preceding five years as mentioned in para 4(f) above.

(c) Airmen against whom observation(s) has/have been made by Dte of Intelligence/ PM(Air) at Air HQ.

Therefore, the grant of extension of service is subject to discretion of competent authority and subject to airman meeting criteria mentioned above.”

to argue that on account of certain observations in the service sheet of the applicant with regard to his conduct, the matter was referred to the Competent Authority and while processing the claim of the applicant, the Competent Authority in the Air HQ observed that during the year 2018, the applicant was actively involved in the Multi Marketing Business (Bike Bot) wherein he had invested Rs.4,37,700/- for seven bikes. This act of the applicant was contrary to the provisions of Para 593 (a) of the Regulations for the Air Force, 1964, which reads as under:

“no officer or airman is permitted without the sanction the Central Government to accept a directorship in any public, industrial or other company or firm or to assist or advise any such company or firm in question relating to their plant, processes or products. They are also forbidden to act directly or indirectly as agents for any company, firm or person or to engage in trade.”

and, therefore, a Court of Inquiry (CoI) was conducted with respect to the same and the applicant was found blameworthy for his conduct in participating in Multi Marketing Business

activities. The findings of the CoI were approved by the Competent Authority and the applicant was awarded severe displeasure on 11.06.2019 in the form of censure vide Annexure R-4. It is the case of the respondents that the activities carried out by the applicant based on which the censure was awarded involved applicant's involvement in the Multi Level Chain of Marketing Scheme and this was in violation to Para 593 of the Regulations for the Air Force, 1964, and, therefore, the impugned action has been taken.

8. The respondents contented that the applicant cannot claim extension as a matter of right. It is their contention that extension is granted after evaluating the service records of an individual, it is not a right and the power for granting extension is with the Competent Authority. Once an employee completed his tenure of service, i.e., 20 years and earned pension, extension is granted at the discretion of the Competent Authority and in this case, on account of the reasons indicated, as the Competent Authority did not find it feasible to grant extension to the applicant, there is no illegality in the matter. The respondents placed reliance on various judgements to say that extension of three years of service is not a matter of right. They relied upon the following judgements:

(i) AFT (PB), New Delhi, in the case of JWO Ravi Ranjan Kumar Vs. Union of India & Ors. (OA 1075/2022 decided on 06.10.2022).

(ii) AFT (PB), New Delhi, in the case of Om Prakash (Ex. Sgt) Vs. Union of India and others (OA 24/2009 decided on 19.01.2010).

(iii) Hon'ble Delhi High Court in the case of Om Prakash Vs. UOI & Ors [W.P.(C) No.1918/2010 decided on 15.07.2011].

(iv) Hon'ble Supreme Court in the case of Union of India & Ors. Vs. Cpl BK Verma [SLP(C) No.16448/2017 decided on 07.12.2017].

copies of which have been brought on record as Annexures R-1, 2 and 3, in support of their contention.

9. We have heard learned counsel for the parties at length and perused the records.

10. Admittedly, in accordance to the provisions of the AFO and the principles laid down not only by this Tribunal but also by the Hon'ble Delhi High Court in the case of Om Prakash (supra), extension is not a matter of right but is a matter of discretion of the department. Similarly, the Hon'ble Supreme Court in the case of Cpl BK Verma (supra) (Annexure R-2) has also held that extension cannot be claimed as a matter of right.

The power is vested with the Competent Authority to grant extension after evaluating the service records and, therefore, the consistent judgements in the matter of grant of extension clearly stipulates that extension cannot be claimed as a matter of right. It is granted after completing the regular tenure of service and in the discretion of the Competent Authority subject to fulfillment of certain conditions. However, if the discretion has been exercised arbitrarily in an illegal manner, discriminatory in nature, judicial review of the same can be permitted but not otherwise.

11. Admittedly, in this case, initially when the applicant did not pass the JWO promotion examination, his claim for extension was rejected as the criteria laid down in the policy was not fulfilled by him. However, when he cleared the JWO promotion examination, the respondents again processed his claim for grant of extension and while doing so, conduct records and suitability of extension which are the criteria laid down were evaluated and in accordance to Para 7 of the AFO 21/2014, the criteria laid down for grant of extension of service with regard to reference to conduct sheet was also evaluated. The said provision is already reproduced in the preceding paragraph and Clause (b) and (c) of the policy pertains to observations made with regard to the conduct. Even

though leaned counsel for the applicant tried to argue that Black Ink Entries in the preceding 05 years back cannot be a ground for denying extension once it is a settled principle that extension of service is not a right and it is based on the requirement of the policy and discretion of the Competent Authority, the principle is that 05 Red Ink Entries in the previous years cannot be a ground for withholding promotion or discharging from service will not apply for the simple reason, denial of extension is neither a punishment nor an adverse action. It is only a provision, at the discretion of the Competent Authority to grant extension of service to an employee who has completed his tenure of service, i.e., 20 years and this being a discretion to be exercised by the Competent Authority in accordance with law which cannot be claimed as a matter of right, this Tribunal is required to exercise its judicial power of review to evaluate as to whether the discretion to refuse extension to the applicant is granted arbitrarily or illegally.

12. The conduct and the conduct sheet of an employee becomes a point of consideration for the purpose of evaluating a case for grant of extension. Admittedly, in the year 2018 because of involvement of the applicant in the matter of participating in Multi Level Chain Marketing Scheme action

was taken against him by virtue of the provisions of the Para 593 of Regulation for the Air Force, 1964. A Court of Inquiry (CoI) was conducted and based on the report of the CoI, an order vide Annexure R-4 was issued. The order in question reads as under:

CENSURE

1. *A Court of Inquiry (CoI) was assembled at HQ WAC (U), AF on 14 Mar 19 and subsequent days to inquire into the association of air warriors in multi-level chain marketing business with M/S Garvit Innovative Promoters Limited (commonly referred to as Bike Bot). The said CoI found you blameworthy on the following counts:-*

(a) Participated in multi-level chain marketing scheme and invested in M/s Garvit Innovative Promoters Limited, which is contrary to Para 593(a) of Regs for the AF, 1964.

(b) While functioning as agent of M/s Garvit Innovative Promoters Limited enrolled the following air warriors into the scheme and earned incentives for the same:-

- (i) Cpl Vikram Sharam*
- (ii) Cpl RK Sahu*
- (iii) Cpl Sumeer Singh*
- (iv) Cpl US Soni*
- (v) Cpl SR Kanaram*
- (vi) Cpl SA Malik*

2. *The AOC-in-C WAC having considered the proceedings of the said CoI is of the opinion that blame attaches to you for the above said lapses. The AOC-in-C WAC has, therefore, awarded you his 'Displeasure' on 11 Jun 19.*

3. *This is conveyed to you in terms of Para 32 of AFO 03/08.*

13. From the aforesaid, it is clear that the applicant invested in a particular company, functioned as an agent for the said

company and 07 Air Warriors were inducted to the scheme being run by the company and the applicant earned incentives by doing so. This was considered to be an act contrary to the provisions of law akin to entering into business while in service by a member of the Indian Air Force and if considering all these factors, the respondents have refused to grant extension of service to the applicant. This Tribunal in exercise of its limited jurisdiction of judicial review cannot sit over the said decision of the Competent Authority and interfere into the matter. Service in the Armed Forces of the Union of India contemplates and requires maintenance of higher standards of discipline conduct and if an employee indulges in activities which are not permitted by the conditions applicable to the services of the Armed Forces, this Tribunal cannot interfere into such exercise of discretion by the Competent Authority unless it is found to be in violation to statutory rules or regulations of constitutional provisions. In the instant case, once it is established that extension of service on completion of the tenure of appointment is not a right and the respondents for valid reasons permissible under law have refused extension of service to the applicant, we see no reason to interfere into the matter.

14. Accordingly, the OA stands dismissed.

15. No order as to costs.

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

Pronounced in open Court on this 13th day of April, 2026.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[RASIKA CHAUBE]
MEMBER (A)

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