

**ARMED FORCES TRIBUNAL
REGIONAL BENCH
JABALPUR**

CORAM :

**HON'BLE MR JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN GOPAL R, MEMBER (A)**

OA 82/2018

**No 15411481X Hav/Clk (SD) N Narendra Kumar
S/o B Narasimhalu,
Military Hospital, Jabalpur (MP).**

.....Applicant

Versus

- 1. Union of India,**
Through the Secretary
MoD, GoI, New Delhi
- 2. COAS,**
IHQ of MoD (Army),
DHQ PO, New Delhi
- 3. Directorate General Armed Forces,**
Medical Services, Army HQ,
DHQ PO, New Delhi
- 4. Director General Medical Services,**
Army HQ DHQ PO New Delhi
- 5. The Commandant,**
Army Medical Corps
Centre and School, Lucknow (UP)
- 6. OIC,**
Army Medical Corps Records, Lucknow (UP)
- 7. No 15421781M Nk (Now Capt)**
Mithuna SM, 403 Field Hospital,
C/o 56 APO,
- 8. No 15416523H Nk (Now Capt)**
Tanmay Kumar Mishra,
Military Hospital, Wellington

.....Respondents

AND

OA 28/2016**No 15417748X Hav/Lab Assistant Dheerendra Kumar Singh**S/o Shri Vijay Bahadur Singh,
Military Hospital, Jabalpur (MP).**.....Applicant****Versus**

- 1. Union of India,**
Through the Secretary
MoD, GoI, New Delhi
- 2. COAS,**
IHQ of MoD (Army),
DHQ PO, New Delhi
- 3. Directorate General Armed Forces,**
Medical Services, Army HQ,
DHQ PO, New Delhi
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Mithuna SM, 403 Field Hospital,
C/o 56 APO,
- 8. No 15416523H Nk (Now Capt)**
Tanmay Kumar Mishra,
Military Hospital, Wellington

.....Respondents**For Applicant :** Mr KC Ghildiyal, Sr Advocate with Mr HC Singh,
Advocate in **both cases****For Respondents :** Mr Aakash Malpani, holding brief of Mr HS
Ruprah, CGSC in **OA 82/2018**
Mrs Kanak Gaharwar, CGSC in **OA 28/2016**

ORDER

1. OA 28/2016 Havildar Dheerendra Kumar Singh Vs UoI & Others had been clubbed with this OA 82/2018 Havildar N Narendra Kumar Vs UoI & Others, vide our order dated 27.04.2016. Hence a combined order is being issued covering both the cases.
2. No 15411481X Hav/Clk (SD) N Narendra Kumar (herein after referred as Applicant 1) had been enrolled in Army Medical Corps (AMC) on 27.09.2000, whereas No 15417748X Hav/Lab Assistant Dheerendra Kumar Singh (herein after referred as Applicant 2) was enrolled in Army Medical Corps on 30.04.2003. Applications had been called for by Office of the DGAFMS for Permanent Commission (PC) as well for Short Service Commission (SSC) (Non-Technical) in AMC, vide their letter No 32433/PC/SSC/AMC (NT)/2011/DGAFMS/DG-1A dated 14.01.2011. The Applicants 1 & 2 had applied for grant of only PC. The number of vacancies sanctioned for the year for PC was 6 and 16 for SSC. The Individuals after due screening, had appeared in the Service Selection Board (SSB), where Applicants 1 & 2 had secured 19th and 22nd position respectively.
3. The Applicant No 1 had filed a Statutory Complaint dated 24.09.2012, as he had not been granted Commission. The same had been rejected by COAS on 29.04.2014. Later on, he filed another statutory complaint dated 22.08.2015 which was again rejected on 17.07.2017 on the ground that his case for grant of Commission had been handled as per extant policy and also due to the fact that the individual had already availed the three chances permitted for SSC (NT). In the interregnum, when the first Statutory Complaint of Applicant 1 was in progress, the individuals had

filed OA 45/2014 & OA 14/2014 at AFT, PB, New Delhi for issuing directions to the Respondents to prepare one single gradation list in terms of para 6 (h) of AI 10/2011 as well to release more vacancies so as to accommodate deserving candidates including the applicants who have been found fit to be commissioned, by maintaining their seniority. On 07.11.2014, the AFT, PB, New Delhi had rejected the same.

4. However, the AFT, PB, New Delhi in OA 45/2014 & OA 14/2014 had also directed that the petitioners may be considered for SSC in terms of AI 40/1973, if any vacancies are released by DGAFMS in accordance with the provision of AI 10/2001". In pursuance of AFT directions, the issue was duly considered by the competent authority and due to the existing cadre position of AMC (NT) officers, the same was not found feasible.

5. After clearance in the initial screening, the individuals had appeared before the Service Selection Board, and were in the list of candidates selected for grant of permanent commission. However, they were not granted PC as both of them were not within first six in the merit list of PC, but was claiming to be entitled to be considered for grant of SSC as per provisions of Para 6 (h) of AI 10/2001. The para read as under:-

"Para 6 (a) to (g). xxxxx.

(h) Based on grading forwarded by the Service Selection Board, the required number of candidates will be considered selected for grant of Permanent Commission as per Service Selection Board and availability of vacancies. The remaining will be granted SSC in terms of AI 40/73 depending upon vacancies as decided by the DGAFMS."

6. Though Army Instruction (AI) 10/2001 dealt with grant of PC (NT) Commission, it had a provision, by which, after the required number of vacancies for PC had been filled up, those remaining in the merit list could be granted SSC (NT) depending upon the availability of vacancies.

7. The number of candidates who had been recommended for PC (NT) after due qualification in SSB, were 22. The applicants were 19th and 22nd position respectively in the PC (NT) merit list. The vacancies for PC (NT) being 6 only, the first six had been granted PC (NT) Commission. As per the list, there was only one individual who had applied for both PC (NT) & SSC (NT) and who had secured 12th position.

8. The number of candidates who had been recommended for SSC (NT) after due qualification in SSB, were 14 only and all had been granted SSC (NT). The individual who was placed 12th in the PC (NT) merit list was later on added, as he was the only individual, who had applied for both PC (NT) & SSC (NT). As still, one more vacancy was available and remained unfilled, Naik Shaji KP, who was 7th in PC (NT) list, was shifted to SSC (NT) list and granted SSC (NT) commission.

9. Feeling aggrieved by the absolutely illegal and arbitrary action of denial of SSC (NT) commission the OAs have been preferred.

10. Heard both the parties and perused the documents placed on record.

11. We find that the whole issue raised in the OAs, in front of us is *no more Res Integra* and has reached its finality when the Hon'ble Supreme Court in a similarly placed case of **Subedar Prasant Kumar Sahoo Vs UoI & Others (Civil appeal Diary No 13236/ 2021 decided on 12.10.2022)** relating to AMC PC (NT) & SSC (NT) Commission as related to year 2011,

had dismissed the same, thereby upholding the verdict of AFT Lucknow in OA 410/2018 decided on 18.02.2021.

12. Hence, the OAs stand disposed of. No order as to costs.

Pronounced in open Court on 18th July 2023

(JUSTICE RAJENDRA MENON)
CHAIRPERSON

(LT GEN GOPAL R)
MEMBER (A)

A/L