

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, MUMBAI**

**ORIGINAL APPLICATION No.87 of 2019**

Ami Lal	]	
Ex-MCPO II PTI, No.166938-F	]	
Age 53 years, son of Shri.Ram Kumar	]	
Occn. Pensioner,	]	Applicant.
Presently residing in Qtr No.R33/11C	]	
New Navy Nagar, Colaba,	]	
Mumbai 400 005.	]	

**Versus**

1] The Union of India	]	
Through Secretary,	]	
Ministry of Defense, South Block	]	
104, South Block	]	
New Delhi 110 011.	]	
	]	
2] The Chief of the Naval Staff	]	
Integrated Headquarters of	]	
Ministry of Defence (Navy)	]	
South Block, New Delhi 110 011	]	
	]	
3] The Flag Officer –	]	Respondents.
Commanding in Chief Headquarters	]	
Western Naval Command,	]	
2 <sup>nd</sup> Floor, Near Tiger Gate,	]	
Naval Dockyard, Ballard Pier,	]	
Mumbai 400 001.	]	
	]	
4] The Commodore	]	
Bureau of Sailors c/o INS Tanaji	]	
Sion Trombay Road, Cheetah Camp	]	
Mankhurd, Mumbai 400 088	]	

**Mr. Yogendra Pratap Singh, Advocate, for the applicant**

**Mr. A. J. Mishra, Advocate, for the respondents.**

**CORAM: SHAILENDRA SHUKLA, MEMBER (J) &  
VICE ADMIRAL ABHAY RAGHUNATH  
KARVE, MEMBER (A).**

Judgment reserved on 16.01.2023.

Judgment pronounced on : 31.01.2023

### **JUDGMENT**

**JUDGMENT [ PER: SHAILENDRA SHUKLA, J.]**

This application is filed under Section 14 of the Armed Forces Tribunal Act 2007, wherein following reliefs have been sought.

- “1. Direct the Respondents to supply/produce Approach Papers for Honorary Commission Board of 02/2018, 01/2019 and 02/2019;*
- 2. Quash and set aside the impugned decision of the Chief of the Naval Staff to merge the PTI Sub-cadre into Seaman Branch for awarding Honorary Commission.*
- 3. Quash and set aside the impugned decision of Chief of the Naval Staff and/or Honorary Commission Selection Board 01/2019 for merging the vacancies of PTI Sub-*

*cadre with Seaman Branch for awarding Honorary commission on Republic Day 2019;*

4. *Quash and set aside the impugned decision of the Honorary Commission Selection Board 01/2019 for not considering the applicant against the vacancy allocated to PTI Sub-cadre of Seaman Branch awarding Honorary commission on Republic Day, 2019.*
5. *Direct the Respondents to consider the applicant against the proportionate vacancy in PTI Sub-cadre for awarding him for Honorary Commission on Republic Day i.e. 26/01/2019;*
6. *Grant the applicant Honorary Commission with effect from 26/01/2019;*

2] Succinctly speaking, the facts of the case are that the applicant was enrolled in Indian Navy on 08.01.1987 as Matric Entry Rating (MER) for initial engagement of 15 years. On completion of basic training, applicant was allotted Physical Training Instructor (PTI) Sub-cadre under the Seaman branch. On 01.06.2008, applicant was promoted to the rank of Chief Petty Officer. Subsequently on the basis of meritorious career, he was promoted to the rank of MCPO-II(PTI) w.e.f 1.7.2011. During his long and dedicated service, applicant was awarded several commendations, medals, decorations. Applicant has rendered 32 years 6 months and 19 days

of naval service and has maintained impeccable track record. The award of Honorary Commission is granted to MCPO depending upon the vacancies in the Sub-cadre biannually i.e. on Republic Day and on Independence Day. As the applicant was due for release from naval service on 31.07.2019, he was eligible for the grant of Honorary Commission. On 26<sup>th</sup> January 2019, he was recommended by his Commanding Officer for considering him for the Honorary Commission. Applicant was the top most contender in the PTI Sub-cadre. However, he came to know that the Chief of Naval Staff and/or Honorary Commission Board has selectively and arbitrarily merged the PTI sub-cadre with the Seaman branch for awarding Honorary Commission. Previously such merger was not being followed for the empanelled personnel in both the branches i.e. Seaman and PTI who were granted Honorary Commission. Despite being fully qualified, applicant was not considered by the Board for grant of Commission and no reasons were assigned for not granting the same. Dis-satisfied, applicant preferred statutory representation for redressal of grievances. He received reply that his representation was rejected on the sole ground that he was low in merit for award of Honorary Commission. The applicant has submitted that the

aforesaid merger of PTI Sub-cadre with the Seaman branch is unjust and unreasonable and there should have been proportionate (prorata) vacancies allocated to the PTI Sub-cadre and proportionate vacancies must be created for PTI sailors. 36 MCPOs were considered for Seaman branch, out of whom 28 were awarded Honorary Commission. However, from PTI sub-cadre of 93 MCPOs only four were considered by Selection Board. None of them were awarded Honorary Commission. Out of Musician branch consisting of 13 MCPOs, only two were considered and one of them was granted Honorary Commission. As no proportionate vacancies were allotted to the PTI sub-cadre, applicant has been deprived of being awarded Honorary Commission. Those MCPOs who are dedicated, meritorious and sincere and have served for long period, award of the Honorary Commission is given but despite being fully qualified, applicant was deprived of the award. Under these circumstances, reliefs as described above have been sought.

3] In reply, it has been stated that for awarding Honorary Commission, each sailor's performance is objectively assessed by the Board of Officers and marks are awarded. As per promulgated IHQ MoD(N) (directives), there were total 42 sailors considered by

the Board against 26 vacancies. Applicant was placed at merit position 31 and was thus well below the cut off for 26 vacancies. Applicant, was thus, low in *interse* merit amongst the other sailors awarded Honorary Commission and hence he could not make it to Honorary Sub-Lieutenant. It is wrong to say that in previous years, MCPOs in PTI were not granted such commission. On 15<sup>th</sup> August 2018, four MCPOs from PTI were granted Commission. On 15<sup>th</sup> August 2019, 7 MCPOs of PTI were awarded commission. The Honorary Commission Board is duly constituted by IHQ MoD (N). The approach paper broadly lays down the procedure to be followed by the Board. The only reason that applicant was not given the benefit of Honorary Commission was that his name was low in *interse* merit amongst the other sailors and applicant is therefore, not entitled to any relief.

4] We have heard both the learned counsel for both parties and perused documents placed on record.

5] The questions before us are 1] whether merger of PTI cadre into Seaman branch was inappropriate and deserves to be set aside? 2] Whether vacancies to Honorary Commission should have

been determined on prorata basis? and 3] Whether applicant was inappropriately not granted Honorary Commission.

6] It appears that the policy of merging PTI Sub-cadre with Seaman cadre was taken looking to factors which are intrinsic to the requirement and interest of services according to Naval Authorities. As the decisions are taken after considering various aspects and approach paper is prepared for the same, which is based on sound logic and reasoning, then quashing of such policy decision on the grounds mentioned by applicant would be inappropriate. Therefore, striking off the policy decision to merge Seaman and PTI would amount to impinging on the right of naval authorities to issue such a policy which we find is not illegal at all.

7] The reason for not awarding Honorary Commission of applicant has been explained by respondents which is that the applicant stood low *interese* merit. There were 26 vacancies for award of Honorary Commission, 42 candidates were considered in the merit list that was prepared, the name of applicant was at 31<sup>st</sup> position. He was thus clearly out of reckoning for award of Honorary Commission. Though the applicant may have been senior most in PTI sub-cadre, but his *interse* seniority after merger was low i.e. 31<sup>st</sup>

in rank and hence he was not awarded Commission. No impropriety is apparent in denying Honorary Commission to the applicant. Hence no relief can be granted to the applicant in these circumstances. Application stands dismissed.

**(Vice Admiral Abhay Raghunath Karve) (Justice Shailendra Shukla)**  
**Member (A) Member (J)**

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