

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

5.

OA 3569/2023

Hav Mukesh Jha

... Applicant

Versus

Union of India & Ors.

...

Respondents

For Applicant

: Mr. Adwait Singh Sirohi, Advocate
(Dhyutidhara Corporate Services
LLP)

For Respondents

: Mr. Y. K. Purohit, Proxy Counsel for
Gp Capt Karan Singh Bhati, Sr. CGSC

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON

HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
17.11.2023

This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant who is a serving Havildar and seeks direction to be issued to consider him for PC(SL) commission in the 2022 quota, in a category for which he did not apply.

2. The applicant had applied for PC(SL) commission for the 2022 quota in the category of Record Officer (RO). He successfully cleared the selection process and was at serial 92 in the merit list of those

who qualified in the RO category for a total of 24 vacancies. The applicant now thus wants that he be considered for the category of EMAE(SA) for which he is otherwise suitable as per criteria, but had not opted for when he submitted his application.

3. The policy on submission of application is governed by AG's Branch/MP-2 letter No. 08211/PC(SL)/SI/MP-2 dated 17.01.2007 'Standing Instructions for Submission of Application for Grant of Permanent Commission (Special List). Para 10 of this letter clearly state that there is no bar for applying for more than one category, provided the applicant meets the laid down eligibility criteria. That 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.*** Para 10 is extracted below:-

"10. Applications should be submitted in the form attached to A1 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 to each category. However, the choices should be written by the candidate himself in order of preference, in 'one application only'.

4. Evidently, the applicant had only indicated one category; 'RO' and chose not to indicate any other choice. The argument that he was unaware of the provisions that he was eligible for the Cat of EMAE(SA) is certainly not convincing and is thus no grounds to seek a reconsideration at this stage when the complete selection process for PC (SL)-2022 has been completed and the list of selection personnel has been promulgated (A-1). On not making it to the merit list for RO category with 24 vacancies, being 92 in the order of merit, the applicant cannot now turn around and say that his candidature be considered against another vacancy, namely, EMAE (SA) in the category of EMAE merely because there are 11 vacancies and only six have qualified. If the request of the applicant is permitted it will not only be contrary to the provisions of Para 10 of the policy, but it will also lead to similar demand by other persons who are similarly eligible for consideration against this category, though they may not have applied for the same.

5. Similar cases have been adjudicated by this Tribunal and dismissed. This Tribunal order dated 31.05.2017 in OA No. 772/2017, Sub R. B Suresh vs UoI & Ors held the following:-

1. This is an Original Application under Section 14 of the Armed Forces Tribunal Act, 2007. The grievance of the applicant is that he had applied for consideration of permanent commission (Special List) for the post of Record Officer (in short 'RO'). It is stated that though he was qualified in Services Selection Board, Bhopal but he could not make it in final merit list for RO and now wants a re-consideration in the post of Administrative Office category and Barrack Stores Technical Equipment Officer (in short 'BSTEO'). It is the case of the applicant that he has the requisite qualification for the said post and there are 19 unutilized post and hence this Original Application.

2. We have heard the learned counsel for the applicant. We have also gone through the record and the standing instructions dated 17.01.2007 for the grant of permanent commission in special list laid down in clause 10 which is as under:-

xxxxxxx

3. A perusal of the aforesaid clause and an official can apply for more than one category for grant of permanent commission, subject to his meeting the eligibility condition in one application only but once the option is made he is stopped from changing or increasing his option.

4. In the instant case, the applicant admittedly, when he had applied for grant of permanent commission, only for one category, i.e., Record Officer to which he did not make to the final list. After having failed to become R.O., the applicant cannot now turn around and say that his candidature be considered against another vacancy, namely, Administrative Officer (AO) in the category of Barrack Stores Technical Equipment Officer, merely because there are 19 vacancies. If this is permitted to be done, not

only it is against clause 10 of the standing instructions, but it will also lead to demand by other persons who are similarly placed for consideration against the aforesaid category, though he may not have applied for the same. It will result in some kind of preferential treatment in comparison to similarly placed persons, in addition to denial of fair chance to other persons who may like to apply in future for the said vacancy.

5. *In view of the aforesaid reasons, we feel that the present application is totally misconceived and deserves to be dismissed. Accordingly, the present OA is devoid of any merit and the same is dismissed.*

5. In view of the above consideration, the OA is dismissed.

[RAJENDRA MENON]
CHAIRPERSON


[P. M. HARIZ]
MEMBER (A)

/jyoti/