

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

O.A. No. 42/2018

Coram : Hon'ble Dr. (Mrs.) Justice Indira Shah, Member (Judicial)

Hon'ble Lt Gen Gautam Moorthy, Member (A)

APPLICANT (S)
RESPONDENT (S)

NB SUB AMEET KUMAR
UNION OF INDIA & ORS.

Legal Practitioner of applicant
Miss Manika Roy

Legal Practitioner for Respondent (s)
Mr. Partha Ghosh

ORDERS OF THE TRIBUNAL	
Order Serial Number :	Dated : 12-10-2018
<p>Heard the learned counsel for the parties and the Departmental representative.</p> <p>In pursuance of our Order dated 14th September, 2018, the Respondents (OIC, Legal Cell) has submitted a Signal No. A4444 which is reproduced as under:</p> <div><div>"OP IMMEDIATE</div><div>In lieu of msg form</div><div>FROM : EME RECORDS</div><div>DTG</div><div>TO : LEGAL CELL HQ BENGAL AREA</div><div>UNCLAS</div><div>INFO: INDARMY (EME PERS)</div><div>A4444</div></div> <p>-----</p> <p>OA NO 42/2018 FILED BY JC-770945N NB SUB AMEET KUMAR VS UOI AND OTHERS IN THE HON'BLE AFT (RB) KOLKATA (.) REF TO HON'BLE AFT ORDER DATED 14 SEP 2018 AND OUR LETTER JC-770945/PROM/T-B/COURT CASE CELL DATED 27 SEP 2018 (.) INTIMATED THAT MOVE OF APPLICANT WITH HELD IN COMPLIANCE OF HON'BLE AFT ORDER (.)</p>	

HOWEVER COMMA HE CAN NOT (NOT) BE RETAINED IN SERVICE DUE TO POLICY CONSTRAINTS AS RETENTION BEYOND TERMS OF ENGAGEMENTS WITH EXTENDED TENURE NOT (NOT) PERMISSIBLE (.) CHAIN PROMOTION ALSO AFFECTED WITH RETENTION OF THE APPLICANT (.) NO JUNIOR AS PER HIS SENIORITY PROMOTED TO THE RANK OF SUB TILL DATE (.) NO VAC TAKING PLACE TILL HIS RETIREMENT (.) SINCE NO JUNIOR HAS BEEN PROMOTED AND NO VACANCY AVAILABLE FOR HIS PROMOTION COMMA INTERIM STAY GRANTED NEED TO BE VACATED (.) REQUEST APPRISE FACTS TO THE HON'BLE AFT WITH A PRAYER TO VACATE THE STAY AND DISPOSE OFF THE OA (.) MOREOVER DUE TO INVOLVMENT OF VARIOUS AGENCIES LOCATED AT DIFFERENT PLACES COMMA CASE REQUIRED TO BE PROCESSED TO THE COMPETENT AUTH FOR DECISION BEFORE HIS RETIREMENT (.) HENCE DECISION MAY PLEASE BE OBTAINED IN THE ORG INTEREST AT THE EARLIEST AND CONFIRM (.) ANY REDRESSAL GRANTED WILL ALSO SET WRONG PRECEDENCE FOR OTHERS TO FOLLOW (.) IHQ OF MOD (ARMY) COMMA EME (PERS) ONLY (.) FOR INFO WRT TELECON BETWEEN JOINT DIRECTOR IHQ AND SRO (COURT CASE CELL) OF DATE

LT COL RUPINDER SINGH OIC LEGAL CELL TELE:27887144

CASE NO : JC-770945/DP/T-B/COURT CASE CELL

DATED 11 OCT 2018

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It is apparent from the Signal that the Respondents have expressed constraints in considering the case of the Applicant for granting him ante-date seniority with that of his batch mates which was to be granted within a period of one month from the date of receipt of the Order (supra) (Para 19 of the Order refers).

That being so, this Bench directs that the Applicant be granted ante-date seniority as that of his original batch mates, and be considered for promotion to Subedar with the same parameters of his original batch mates. If approved for promotion to Subedar, the applicant be promoted before his date of retirement which has been indicated as 31.10.2018.

Interim order with regard to the stay passed earlier is vacated.

OIC, Legal Cell prays for leave to appeal before the Hon'ble Supreme Court u/s 41 of the AFT Act, 2007. As there is no point of general public importance is involved, the prayer for leave to appeal is hereby rejected.

Accordingly, O.A. is allowed.

No order as to cost.

Let a plain copy of the order, duly counter-signed by the Tribunal Officer, be supplied to both the parties upon observance of requisite formalities.

(Lt Gen Gautam Moorthy)
Member(Administrative)

(Justice Indira Shah)
Member (Judicial)