

ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

APPLICATION NO. : O.A. No. – 42/2018

Applicant (s) : Respondent (s)  
NB SUB AMEET KUMAR : Union of India & UoI  
Legal Practitioner for Applicant (s) : Legal Practitioner for Respondent (s)  
Miss Manika Roy, Ld. Advocate : Mr. Partha Ghosh, Ld. Advocate

Notes of the Registry	ORDERS OF THE TRIBUNAL	
	Order Sheet Ser. No. : 06	Dated : 05.09.2018
	<p>Miss Manika Roy, Ld. Counsel appears for the applicant. Mr. Partha Ghosh, Ld. Counsel appears for the Respondents. Major Vishal Kumar, OIC Legal Cell (Army) is also present.</p> <p>Ld. Counsel for the applicant states that the applicant was denied his notional seniority vide EME Records letter No. 1398/CA-1/T-4/SKT dt. 20.11.2017 (Annexure A-3 of the O.A.). Para 3 of the said letter reads as follows : -</p> <p>.....</p> <p><i>"3. Consequently, EME Pers who were promoted to next rank after repatriation prior to receipt of above policy till Aug 2014 were given ante date seniority along with their batch. On receipt of copy of IHQ of MoD (Army) letter No. B/33513/Prom/AG/PS-2(c) dt. 23 Nov, 2010 vide IHQ of MoD (Army) letter No. B/33513/Prom/AG/PS-2 (c) dt. 04 Aug, 2014 notional seniority to the pers proceeded on msn abroad from 04 Aug, 2014 onwards was not granted.</i></p> <p>.....</p> <p>Hence, she has averred that the applicant also should have been given his notional seniority as he proceeded to UN Mission prior to 04.08.2014 i.e., on 03.03.2014.</p>	

Ld. Counsel for the Respondents states that they are required to get this verified from the EME Records as there are a number of letters on the subject.

Be that as it may, from the records placed before us, it is also observed that the personnel who proceeded on a UN Mission prior to 04.08.2014 were given their notional seniority on their repatriation to India. Similarly, those proceeded to UN Mission post 27.05.2015 were also given their notional seniority, although they were physically promoted only on their repatriation to India. However, who were repatriated between 04.08.2014 and 27.05.2015 seem to be the only ones who were not granted notional seniority.

This appears to us as a clear violation of Article 14 of the Constitution of India.

Hence, we seek clarification on both the issues.

OIC Legal Cell (Army) is directed to get the required clarification from the authorities (AG's Branch and EME Records).

Ld. Counsel for the applicant requests that the matter be heard urgently as the applicant is to retire on 31 October, 2018 in case he is not granted relief.

List the matter on 07.09.2018 (as Item No. 1) for Hearing.

A plain copy of this order will be supplied to both the sides by the Tribunal Officer upon observance of all usual formalities.

(LT GEN GAUTAM MOORTHY)  
MEMBER (ADMINISTRATIVE)

(JUSTICE INDIRA SHAH)  
MEMBER (JUDICIAL)