

# IN THE ARMED FORCES TRIBUNAL

REGIONAL BENCH, GUWAHATI

OA- 25/2015

**PRESENT**

**HON`BLE MR. JUSTICE B.P.KATAKEY, MEMBER (J)**  
**HON`BLE VICE ADMIRAL MP MURALIDHARAN, MEMBER (A)**

Flight Lieutenant Gaurav Kumar(31365)  
Aeronautical Engineer(Mechanical)  
Of No.19 Wing Air Force C/o 99APO

..... Applicant.

By legal practitioners for  
Applicant.

Mr.Sumit Kumar

-VERSUS-

1. Union of India,  
Represented by the Secretary,  
Govt. of India, Ministry of Defence  
South Block, New Delhi – 110011.
2. Chief of the Air Staff,Air Force Headquarters,  
Vayu Bhavan, New Delhi-110011..
3. President , No.1 Air Force Selection Board,Clement Town,  
Dehradun-248002
4. Officer in charge ,Personnel -2, Headquarters Training  
Command, India Air Force, JC Nagar, Post Office  
Bangalore-06
5. Joint Director of Personnel Officer 3(A)Air Headquarters  
Directorate of Personnel (Officers) Room No.17,J Block  
Motilal Nehru Marg, New Delhi-1100106
6. Joint Director Medical Service )MB),Directorate of General  
Medical Service ( Air) Air Hqs R.K.Puram Sector-1,  
West Block 6,1<sup>st</sup> Floor Wingh 7 New Delhi

.....  
Respondents..

By Legal Practitioner for the  
Respondents  
Mr.N.Baruah CGSC

Date of Hearing : 20.03.2017

**Date of Order : 20.03.2017**

### **ORDER**

**( Justice B.P.Katakey, )**

The applicant, who is serving in the Indian Air Force, has filed this application challenging the action on the part of the respondents for not considering him as Permanent Commission Officer, 77 AEC.

[2] We have heard Mr.Sumit Kumar, learned counsel appearing for the applicant and Mr. N.Baruah, learned CGSC appearing for the respondents.

[3] Referring to the communications dated 20.4.2010 and 6.5.2010 which are annexed as Annexure- 3 and 4 ,respectively, to the OA, it has been submitted by the learned counsel for the applicant that it is apparent therefrom that though the recruitment process was initiated for Short Service Commission (SSC) Officer, the applicant was considered for Permanent Commission (PC) in 77, AEC and consequently, the applicant was medically examined and found to be medically fit for recruitment as PC Officer,77 AEC and accordingly, he ought to have been recruited as PC Officer but instead, in the offer of appointment he was wrongly treated as SSC Officer which came some time in 2013. Thereafter, the applicant immediately objected to it by filing representation to review his

appointment and to make it PC Officer. The learned counsel submits that having regard to the aforesaid facts and circumstances, the respondent authority was not correct in refusing to treat the applicant as PC Officer by rejecting the representation filed by him vide order dated 13.08.2014. The learned counsel, therefore, submits that while interfering with the said order dated 13.08.2014, the respondents may be directed to treat the applicant as PC Officer, 77 AEC.

[4] Mr. N.Baruah, learned counsel appearing for the respondents on the other hand relying on the averments made in the OA as well as in the counter affidavit filed, has submitted that it is an admitted position of the fact that the process for recruitment was initiated for SSC Officer, pursuant to which the applicant applied for selection as SSC Officer and he was, in fact, selected as SCC Officer and consequently the offer of appointment was issued which he has accepted. It is further submitted that simply because the Medical Officer who had examined the applicant has found the applicant fit for appointment as PC Officer, 77 AEC, it would not give any right to the applicant to claim appointment as a PC Officer. The learned counsel referring to the averments made in paragraph 4.11 of the OA has also submitted that the averments made therein is not correct as the applicant from the very beginning knew that he was a candidate for SSC Officer and the offer of appointment was also issued as SCC Officer, which he has accepted. That apart, in September, 2012, the applicant himself declared him as SSC Officer while conducting medical examination. The learned counsel, therefore, submits that the applicant is not entitled to the relief as claimed.

[5] It is not in dispute that the process was initiated by the respondent authorities for recruitment of SSC Officers. The applicant filed his application for selection and recruitment as SSC Officer and accordingly, he was selected. The applicant after having failed to clear PAB test, he was asked as to whether he was interested for selection as a Technical Officer, which was also in Short

Service Commission. Having accepted the same, engineering test was conducted and the applicant was successful in such engineering test. The applicant thereafter was asked to appear for medical test vide communication dated 20.4.2010 wherein also it has been specifically mentioned that the course of the applicant is 6 SSC(M) F(P) and the date of medical test was 24.5.2010. The applicant, however, requested the respondent authority to prepone his date of medical examination, which the respondent authority has accepted vide communication dated 6.5.2010 wherein, however, the respondent authorities has mentioned medical examination of the applicant as 77 AE (M) without mentioning the course. The medical examination was accordingly conducted on 13.5.2010. The Medical Board has recommended the applicant fit for commissioning in IAF for AE ( M) Branch duties in Medical Category A4GI-77 AEC. Simply because the Medical Board has found the applicant fit for Permanent Commission ,77 AEC ,it does not give any right to the applicant to claim that he has been selected for Permanent Commission, since the recruitment process was initiated for SSC, the applicant has applied for SSC and never for PC. The applicant thereafter was issued the offer of appointment on 21.6.2010 clearly indicating therein that he has been selected for 49 SSC (M) AE (M). The applicant has accepted such offer of appointment and joined the service. The applicant along with his father has also signed a Bond indicating that the applicant has been selected for Short Service Commission and not Permanent Commission. The bio data which was submitted by the applicant at the time of commission also clearly reveals that the applicant in his own handwriting mentioned his status as SSCO.

[6] The prayer made by the applicant , if allowed would amount to back door entry into service as Permanent Commission Officer, the applicant having selected and appointed as SSC Officer.

[7] That being the position we do not find any merit in the OA, which is accordingly dismissed. We, however, do not make any order as to costs.

[8] It is however made clear that dismissal of the OA would not come in the way of the applicant to ask for permanent commission in due course of time.

[9] The learned counsel appearing for the applicant at this stage has made an oral prayer to grant leave to appeal before the Hon'ble Supreme Court, which is rejected as our order does not involve any question of law having general public importance.

MEMBER (A)

MEMBER (J)

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