

**IN THE ARMED FORCES TRIBUNAL**  
**REGIONAL BENCH, GUWAHATI**

**OA-26/2015**

**Sub/Clk (SD) Dusasan Sahu**

Applicant

**By legal practitioners for  
Applicant**

Ms Rita Devi

**- Versus -**

**1.Union of India & ors**

Respondents

**By legal practitioner for  
Respondents**

Mr.C.Baruah, CGSC.

**P R E S E N T**

**HON'BLE MR.JUSTICE N.K.AGARWAL, MEMBER (J)**  
**HON'BLE LT GEN (RETD) GAUTAM MOORTHY, MEMBER (A)**

**27.01.2016**

Heard Ms.Rita Devi, learned counsel appearing for the applicant. Also heard Ms.N.J.Das, learned counsel representing Mr. C.Baruah, CGSC appearing for the respondents who is assisted by Col Anand, learned JAG officer.

The application is admitted for hearing.

Call for the records.

Issue notice.

As the respondents are represented by their

counsel no formal notice need be issued.

According to the applicant, the applicant has been serving as a Subedar/Clerk (SD) in Bombay Engineer Group under Military Engineer Service and in consideration of his meritorious service, his service period was extended for two year as commencing from September,2015 to September 2017 by an order dated 12.10.2013 issued by the records, Bombay Engineer Group and also his promotion to the rank of Subedar Major was due in DPC, 2015. In the Meantime, on 29<sup>th</sup> May 2014, the applicant reported to 151 Base Hospital, Basistha , Guwahati with some health complaints wherein he was diagnosed with Alcohol Dependent Syndrome and placed in Low Medical Category S3. The applicant was again re-categorized in December 2014 and he was continued in S3 and in June 2015, he was re -categorized in Low Medical Category S2. In his summary opinions, the classified specialist (Psychiatry), 158 BH has categorically stated that the applicant was totally abstained from alcohol consumption since the initiation of treatment in May 2014 and there is repeated reports by the Commanding Officer, 110 Engineer Regiments about applicant's above average vocational performance and normal social behavior thereby recommending his up gradation to S 1. But the classified specialist (Psychiatry), 158 BH without considering such

recommendations of the Commanding Officer as well as the result of psychological test of the applicant, placed the applicant in Low Medical Category S2 (Permanent) resulting in cancellation of the extension of applicant's service period as well as his due promotion to the rank of Subedar Major. He is also being discharged from service w.e.f. 31.01.2016 by order dated 13.08.2015.

The applicant has prayed for granting interim relief.

Mrs Rita Devi, learned counsel for the applicant submits that if the above order discharging the applicant from service w.e.f. 31.01.2016 is not stayed, then the applicant would suffer irreparable loss and injury as much as the order on the face of it is contradictory and in conflict with the recommendation of the Commanding Officer and is also against the Army Order No. 9./2007.

The respondents counsel prays for 4(four) weeks time to file reply

Considering recommendation of the Commanding Officer, the contradictory nature of the opinion of the classified specialist (Psychiatry) and the fact that if *ad interim* stay is not granted the applicant may suffer irreparable loss, as an *ad interim* measure, respondents are directed not to discharge the applicant from service until further orders.

Let the matter be listed on 25.2.2016 for hearing on the interim relief as well as on merit.

. Registry is directed to send copy of this order to the respondents as well as learned CGSC appearing for the respondents.

**MEMBER(A)**

**MEMBER(J)**

**Mc**