

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT
NEW DELHI**

TA No.348/2009

[W.P.(C) 23725/05 of Delhi High Court]

with

MA No.27/2009

Col Rajan Batta

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Maj (Retd.) K. Ramesh, Advocate with petitioner

For respondents: Ms.Jyoti Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON

HON'BLE LT. GEN. M.L. NAIDU, MEMBER

ORDER
02.12.2009

1. The present writ petition has been transferred to this Tribunal for 12.01.2010. However, matter was taken up on the application filed by petitioner for early hearing.
2. Heard learned counsel for parties.

3. Petitioner by this writ petition has prayed that Attachment Order dated 21.06.2005 and the resultant Charge Sheet be quashed and set aside being illegal, perverse and arbitrary. Petitioner further prayed that order dated 25.08.2005 cancelling the study leave of petitioner be quashed and set aside being illegal, perverse and arbitrary. He has also prayed that annual confidential reports of petitioner from 24.12.1996 to 31.05.1997 as also for the period 01.06.1997 to 30.04.1998 initiated by Colonel (now Brigadier) Rajeev Sinha be quashed and set aside being illegal, perverse and arbitrary. Petitioner further prayed that respondents may be directed to hold a special review selection board for promotion of Colonel.

4. We need not to go into the detailed facts of the case. In short petitioner while working as Lieutenant Colonel seems to have had bad treatment from respondent no.5 and as a result of which he earned bad annual confidential report which was challenged by him and ultimately, court of inquiry was held and in court of inquiry it was found that annual confidential report for the period June, 1997 to April, 1998 be removed from record of

petitioner and that finding of court of inquiry dated 30.07.2008 reads as under:-

"I further direct that the forged Confidential Report for the period 6/97-4/98 be removed from the service IC-41094X Lieutenant Colonel Rajan Batta held with Military Secretary's Branch Integrated Headquarters of Ministry of Defence (Army) and the case against him be closed."

5. So far as other annual confidential report for the period December, 1996 to May, 1997 is concerned, court of inquiry recommended that Military Secretary's Branch may consider and take necessary remedial action as deemed appropriate and same is reproduced as under:-

"I recommend that the Military Secretary's Branch Integrated Headquarters of Ministry of Defence (Army) may further examine the Confidential Report covering the period 12/96-5/97 against the backdrop of the instant case, for any inconsistencies or subjectivity therein and take remedial action as deemed appropriate."

6. In pursuance of this court of inquiry, the annual confidential report of the petitioner for the period June, 1997 to April, 1998 was set aside and attachment of petitioner has been revoked and petitioner was reverted back to his parent unit. Therefore, only grievance now remains is with regard to annual

confidential report for the period December, 1996 to May, 1997. We called for the original annual confidential report for the period December, 1996 to May, 1997 which was placed before us for our consideration and after going through that we find that there is no tempering in annual confidential report for the period December, 1996 to May, 1997 because it bears the signature of petitioner himself. We understand that though there is no specific order has been passed in pursuance of the order dated 30.07.2008 on recommendations of the court of inquiry. However, after going through original annual confidential report for the period December, 1996 to May, 1997, we are satisfied that the apprehension of the petitioner that this was also tampered does not appear to be well founded. Consequently, this grievance of petitioner with regard to annual confidential report for the period December, 1996 to May, 1997, we do not think that we can possibly interfere in that. In the changed circumstances, the petitioner is required to be considered for promotion from the post of Lieutenant Colonel to Colonel as and when Departmental Promotion Committee meets and the case of petitioner may be considered objectively and appropriate order in accordance with

law may be passed. The petition is disposed of with above observations. No costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
December 2, 2009