

**COURT NO. 3,
ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

O.A. 230 OF 2010

IN THE MATTER OF:

Col PK Saran

.....Applicant

Through : Col (Retd)A.S Chauhan counsel for the applicant

Versus

The Union of India and others

.....Respondents

Through: Mr AK Bhardwaj, counsel for respondents

CORAM:

**HON'BLE JUSTICE MANAK MOHTA, JUDICIAL MEMBER,
HON'BLE LT GEN Z.U.SHAH, ADMINISTRATIVE MEMBER**

Order

Date: 02-6-2010

1. The applicant has filed OA No 230/2010 in the Armed Forces Tribunal (AFT) challenging impugned order dated 09/10/2007 (Annexure A-1) by the Ministry of Defence rejecting his statutory complaint.
2. The applicant was commissioned on 02/09/1978 in Artillery. In Jan 1997 he was posted to DGQA in the rank of Major as tenure officer. The applicant was approved for promotion to the rank of Lt Col by No 4 selection board and based on overall performance was permanently seconded to DGQA in 11/ 2000.

3. The applicant was considered for promotion to the rank of Col by a Quality Assurance Selection Board on 20/06/2005 but not empanelled. The applicant submitted a statutory complaint on 19/07/2005 (Annexure – 2).
4. The applicant submits that on 21/02/2006 he was communicated adverse remarks which were endorsed in his ACR for the period 01/06/2000 to 31/01/2001 and not communicated to him by any of the officers in the chain of reporting (Annexure A-3). The officer was informed that he was being given an opportunity to submit a representation, if any within a period of 01 month.
5. The applicant submitted a representation on 08/03/2006 (Annexure A-4) and was given only partial redressal on 24/03/2006 (Annexure A-5). The applicant submitted a statutory complaint on 18/07/2005 which was disposed of vide Government of India letter dated 31/03/2006 confirming expunction of adverse remarks and directions to hold a fresh quality assurance selection board in his case (Annexure A-2). Thereafter he was not empanelled by the same on 03/04/2006.
6. The applicant was approved as a review case in March 2007. The applicant submitted a statutory complaint on 26/04/2007 praying for setting aside the impugned ACR, in toto, and the restoration of his original seniority. The statutory complaint was rejected by the MOD vide order dated 09/10/2007.

7. The applicant has prayed that the impugned ACR for the period 01/06/2000 to 31/01/2001 be set aside in totality and the respondents be directed to restore his original seniority, retrospectively.

8. We have heard both the parties at the admission stage with regard to jurisdiction. At the outset the respondents challenged the jurisdiction of the AFT to consider an application by an officer permanently seconded to DGQA. The respondents contended that such officers are governed by departmental rules as laid down by MOD vide office memorandum dated 28/10/1978 and DOP&T rules have been made applicable to permanently seconded officers of the DGQA organisation. The respondents cited the judgement of Maj Gen SB Akali TA No 125 of 2010 whereby the petition was disallowed since the applicant was permanently seconded to the DGQA as his service conditions were governed by the office memorandum dated 28/10/1978.

9. In view of the above ruling given in TA No 125 & 221 of 2010 by the AFT this Court has no jurisdiction on applications submitted by officers permanently seconded to DGQA. The application is therefore returned to the applicant with liberty to file the same before the concerned authority.

MANAK MOHTA
(Judicial Member)

Z.U.SHAH
(Administrative Member)

Announced in the open court
Dated: 02-6-2010