

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

O.A. No. 272/2010

Maj. Gen. Satish Kumar Bhardwaj, S.M. ....Applicant

Versus

Union of India & Others .....Respondents

For applicant: Ms. Jyoti Singh, Advocate.

For respondents: Ms. Veronica Mohan, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. Z.U. SHAH, MEMBER.**

**ORDER  
09.09.2010**

1. Applicant by this petition has prayed for quashing and setting aside RO portion of the ACR for the period of 27.10.06 to 30.06.07 and RO's and SRO's portion of the ICR for the period 01.07.07 to 24.11.07.

2. Brief facts of the case are that applicant was commissioned in the Indian Army in the Grenadiers (Infantry) on 23.12.73 and has an unblemished and outstanding record of

service. During his service career he has done NDC and other military courses and earned a good record which has enabled him to reach to the rank of Major General.

3. The grievance of the petitioner is limited pertaining to two ACRs i.e. for the period of 27.10.06 to 30.06.07 and 01.07.07 to 24.11.07. So far as the first part of ACR is concerned, it appears that it was written on 09.12.2007. According to the guidelines which has given for writing the ACR under the Army Order 45/01/MS, Military Secretary Branch in Part-IV under the heading of "Initiation, Completion or Disposal or Movement of Confidential Reports", it is clearly mentioned that for the Officers, Brigadier and above the date of initiation for ACR is 01<sup>st</sup> July of the calendar year and due date of receipt at the MS Branch on 15<sup>th</sup> September of that calendar year. The grievance of the petitioner is this ACR was written by the RO on 09.12.2007 and the RO took 130 days to write his ACR. Meanwhile the ACR for the period from 01<sup>st</sup> July to 24<sup>th</sup> November, 2007 was sent to RO on 29<sup>th</sup> November and it was received on 05<sup>th</sup> December and it was written by RO on 09<sup>th</sup> December, 2007 and it took only four days. That shows that both the ACRs were written by the RO on

the same date i.e. 09<sup>th</sup> December, 2007, therefore, the grievance of the applicant is that RO has written both the ACRs on same day and whereas the first ACR for the period of 27<sup>th</sup> October, 2006 to 30<sup>th</sup> June, 2007 should have been written prior to receipt of second ACR but RO seems to have waited till the second ACR was received, therefore, he wrote both the ACRs on the same day and there is pasting on both the ACRs though it was authentication as he has signed. But the grievance of the applicant is on the receipt of second ACR, his case has been prejudiced and if it was written prior to the receipt of second ACR perhaps petitioner would have had an objective assessment from the RO. These facts have not been disputed by the respondents and they produced before us original record and perusal of the original record shows that in both the ACRs the RO has written the fresh ACR with his hand and pasted over the portion pertaining to RO's remarks. So far as the pasting is concerned, he is free to do that with his signature thereon. But the facts remains that the first ACR was belated by 130 days and that he must have changed his opinion on the receipt of the second ACR that should not have been done. Normally the ACR pertaining to the period in question should be written in time and should be

adhered to as per the Part-IV of Army Order 45/2001/MS, Military Secretary Branch which is very clear that it should reach the MS Branch within 75 days from the date of initiation but it appears that this guideline given by the MS Branch seems to have not been adhered to. Maybe that the RO had changed his opinion on receipt of the subsequent ACR, we cannot imagine what could have been the reason therein, be that as it may, but the fact remains that first ACR have been endorsed by RO after 130 days delay, normally it should have been reviewed by the SRO who was the then Gen. J.J. Singh and it was sent to him but he declined to endorse the same. Therefore, applicant could have been prejudiced by this belated ACR as the RO might have changed his opinion on receipt of second ACR. Be that as it may we do not venture into the possibilities but the delay in present case is apparent, therefore, all that we can do is this remark of the RO given in ACR for the period of 27<sup>th</sup> October, 2006 to 30<sup>th</sup> June, 2007 may not be taken into consideration for promotion to the post of Lieutenant General. So far as the ACR written for the period of 01<sup>st</sup> June, 2007 to 24<sup>th</sup> November, 2007 is concerned, it has been written within four days. We do not find any reason to disturb this portion of ACR as the remarks given by RO have been

duly authenticated on the paper pasted on the remarks column of the RO in the original petition. Therefore, we have no reason to disturb this portion as same does not suffer any illegality. Consequently, we allow petition in part and direct that the ACR written by RO for the period of 27<sup>th</sup> October, 2006 to 30<sup>th</sup> June, 2007 may not be taken into consideration. As a result of this, respondents are directed to consider the case of applicant ignoring this ACR portion of RO for the period of 27<sup>th</sup> October, 2006 to 30<sup>th</sup> June, 2007. The case of the petitioner may be reconsidered by the Review Committee for the post of Lieutenant General. This exercise may be done within three months from today. No order as to costs.

**A.K. MATHUR**  
**(Chairperson)**

**Z.U. SHAH**  
**(Member)**

**New Delhi**  
**September 09, 2010.**