

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI.

O.A.No. 335/10 of 2009

Lt. Col. Rahul Bakshi

...Petitioner

Versus

Addl. Dt. General of Manpower

...Respondent

For the Petitioner : Shri A.N.Tiwari, Advocate

For the Respondents: Shri Mohan Kumar, Advocate

C O R A M:

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

HON'BLE LT.GEN. M.L.NAIDU, MEMBER (A)

**ORDERS**

1. Petition by this petition has prayed that respondent may be directed to condone the delay in publication of Battle casualty in respect of applicant and has also prayed that his injury may be declared as a battle casualty. Brief facts which are necessary for the disposal of the petition are:

- (a) That the petitioner, the Lt. Col of 99 Field Regiment was inducted for a Second Tenure of Saichen Glacier for carrying out a Specialized Commando Observation Post Operations on the night of 17 September, 1997 located in Sub Sector West, PULU-II in area of operations under SAICHEN GLACIER IN ACTIVE OPERATIONS IN FACE OF ENEMY" known as "OP MEGHDOOT". Earlier the petitioner had completed full tenure of Saichen Glacier from 1.8.1996 to 28.1.1997. The petitioner while being inducted on 17.10.97 fell and suffered head injuries and injuries on entire body and acute mountain sickness along with transient unconsciousness due to environmental (snow) conditions on 21.10.1997.
- (b) A letter dated 12.2.2010 was addressed to respondent sending therewith statement of case for condoning delay in publication of Battle casualty in respect of the incumbent. The petitioner also addressed a letter to Lt.Col.Tarun Gosain, AAG in the Office of ADG and impressed upon that as a young officer, the applicant of 3 years service he has



completed one full extended tenure of Siachin glacier and within 8 months was re-inducted for second tenure, without hesitation though there is required to be a gap of seven years between the two tenures. However, the request was declined.

3. The main grievance of the petitioner is that on 17.10.1997, when he was at the altitude of 14000 feet and 2 nights at Pulu-II. On second day of stay, he got a splitting headache and vomiting. He was called down and while coming down he fell down twisting of Rt. Ankle. He got sprain in the right ankle on 12<sup>th</sup> April and he was given POP cast for 14 days. Officer was detailed to Commando O.P. after healing of the sprain. The grievance of the petitioner is that this was a battle casualty which has not been reflected as a battle injury in the Part-II of the Order.
4. The petition has been contested by the respondent and respondent pointed out that petitioner has approached this tribunal after a belated stage and he received a sprain in ankle



ankle which has been treated and he has been given various postings and has gone abroad also to Ethiopia and Eretria, but he never complained of this ankle sprain. Learned counsel for the respondent has also brought to our notice that this ankle injury was first received by the petitioner when he was posted in Devlali, in 1995.

5. We have heard both learned counsel for the parties and perused the record. So far as the non-entering of this injury as a battle casualty in the part-II of the order though belated but it is justified as since he was posted in the glacier during the "OP MEGHDOOT". This injury should have been mentioned in the part-II of the order. This fact is also borne out by the opinion of the Director General of the Medical Services. This has been verified by the Field Doctor (the Regimental Medical Officer) that during the Commando Operation training the incumbent had received this injury in the ankle on account of sprain. This has been further verified by the Director MS(P) on 10.3.2010 that officer sustained the injury, a sprain in the ankle in October, 1997 and it is attributable to military service based on the

endorsement by the medical and administrative authorities. Therefore, the medical and administrative authorities, both have certified that the incumbent received this ankle injury during "OP MEGHDOOT". If that be so, there is no reason why this has not been included in the Part-II of the order.

6. Therefore, we allow this petition and direct that a sprain of the ankle (Right) received by the petitioner during Siachen posting in the area of "OP Meghdoot" sustained in the 1997 should be construed to be battle injury and should be entered as Battle Casualty in the Part-II of the Order.
7. The petition is allowed. No order as to costs.

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[Justice A.K. Mathur]  
Chairperson

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[Lt. Genl. ML Naidu]  
Member (A)

New Delhi  
November, 2010