IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

T.A. No. 203/10
WRIT PETITION (CIVIL) NO. 12548/05

Hav. Om Prakash .....Petitioner
Versus
Union of India & Ors. .....Respondents

For petitioner : Sh. R. D. Chauhan Advocate.
For respondents: Sh. Anil Gautam Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.

ORDER
07.12.2010

1. Petitioner by this writ petition has prayed that respondent may be directed to promote the petitioner to the rank of Naik Sub from Havaldar as per his seniority as his juniors were promoted with all service benefits. The petitioner was inducted in Army Service on 17 Nov 1980 in the Signals and with the passage of time he reached to the position of Havaldar. He has also gone under necessary training which is required for promotion to the post of Naik Sub. Despite that he has not been promoted to the post of Naik Sub and persons junior to him have been promoted. Hence, he filed the present Writ petition in Delhi High Court which has been transferred to this Tribunal after its formation.

2. A reply was filed by the respondent, respondent has pointed out that for grading of last 5 years ACRs of the petitioner were in 2000 he got above average, in 2001 he got above high average, in 2002 he has got high average, in 2003 he has got high

average and in 2004 he has got above average. According to the respondent, for promotion to the post of Naik Sub, one is required to have ACR grading as per the criteria laid down in the Army Headquarters Communication dated 10 Oct 1997. For promotion to the rank of Naik Sub only last 5 years Reports will be considered out of which 3 Reports must be in the Rank of Havaldar. in case of shortfall rest will in the rank of Naik.

3. At least 3 out of last 5 reports should be Above Average. With a Minimum of 2 in rank of Sub / Havaldar and remaining should be not less than high average as per the reply filed by the respondent, as per service record of petitioner in last 5 years tenure service petitioner has only 2 above average whereas at least 3 above average grading remarks are required. Petitioner could not be promoted as he was short of 3 above average ACRS. Hence, in view of the reply filed by the respondent, we are of the opinion that the respondent's juniors were rightly superseded no ground for us to interfere in the matter, consequently writ petition is dismissed. No order as to costs.

A.K. MATHUR
(Chairperson)

M.L. NAIDU
(Member)

New Delhi
December 07, 2010.