

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

**T.A. No. 255 of 2010**

**W.P (C) No 16669 OF 2006 of Delhi High Court**

**IN THE MATTER OF:**

**Lt Col Anil Kumar** .....**Applicant**  
Through Mr Narender Dutt Kaushik, Counsel for the applicant.

Versus

**Union of India & Ors** .....**Respondents**  
Through: Ms Barkha Babbar, Counsel for the respondents.

**CORAM:**

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

**JUDGMENT**

**Date: 12/11/2010**

1. The applicant had filed WP (C) No 16669/2006 in the Hon'ble Delhi High Court praying that Govt of India order dated 21/03/2005 (Annexure P-6) rejecting his non statutory complaint dated 19/10/2004 and Govt of India order dated 31/07/2006 (Annexure P-8) rejecting his statutory complaint dated 07/04/2005 be set aside. The applicant also prayed that the complete assessment of RO in his ACR 05/10/2003 to 31/08/2004 be expunged and he be reconsidered by the review board and be granted all consequential benefits. The case was transferred to this Tribunal on 09/11/2009.

2. The applicant was commissioned in the Artillery on 13/06/1987. Subsequently the officer rose to the rank of Lt Col by selection after approval by promotion board held in Jun 2003.
3. The applicant was informed that he has not been empanelled for promotion to Colonel by promotion board held in Sep 2005 vide letter of 09/11/2005 (Annexure P-3). He was further informed that he was again not empanelled by review board vide letter dated 15/06/2006 (Annexure P-4).
4. The applicant states that Respondent No 4, Brigadier SC Gokhle, Commander 3 Artillery Brigade communicated some adverse remarks made by him as RO in his (applicant's) ACR for the period 05/10/2003 to 31/08/2004. The applicant avers that the assessment of his RO diluted the very good assessment of his IO.
5. The applicant filed a non statutory complaint on 19/10/2004 (Annexure P-5). The same was rejected by the GOC-in-C Northern Command order dated 21/03/2005 (Annexure P-6). Subsequently the applicant filed a statutory complaint dated 07/04/2005 (Annexure P-7). The same was rejected vide order dated 31/07/2006 (Annexure P-8). The applicant filed another non statutory complaint dated 23/11/2005 (Annexure P-9). The same was rejected by the COAS vide order dated 06/09/2006 (Annexure P-10). The applicant avers that the RO endorsed adverse remarks in his ACR because of some fire incidents in his unit during the period Oct 2003 to Aug 2004. There were also two military transport accidents in the unit because of which RO developed bias against him. The applicant states that although he was second in

command in the unit but he was not directly responsible for the cases of fire and military transport accidents and being professionally competent he deserves to be promoted to the rank of Colonel.

6. The Respondents in their counter affidavit have stated the applicant was promoted Lt Col by selection. He was considered for promotion to the rank of Colonel by two selection boards held in Sep 2005 and Apr 2006. In both he was not empanelled based on his overall profile and comparative merit. The non statutory and statutory complaints filed by the applicant were rejected (Annexure P-6 & P-8). Subsequently the applicant filed another non statutory complaint which was rejected by the COAS (Annexure P-10).

7. The respondents state that certain weak remarks were endorsed in the ACR of the applicant for the period 05/10/2003 to 31/08/2004 when the applicant was second in command of 199 Field Regiment. The weak remarks were communicated by the RO to the applicant. The SRO supported the assessment of the RO and both RO and SRO opined that the IO had been liberal in his assessment. The applicant was not empanelled because of his overall profile and comparative merit and the respondents have recommended that the application be rejected.

8. In a rejoinder the applicant has repeated his earlier assertions and also stated that the Courts of Inquiry, subsequent to the fire incidents and military transport accidents had not held him blame worthy.

9. We have heard the arguments and perused the records. In the impugned ACR of Oct 03 to 31 Aug 2004 the RO communicated to the applicant the weak remarks endorsed by him in the report. The SRO endorsed the assessment of the RO and stated that the assessment of the IO was liberal. We have perused the concerned ACRs of the applicant for the period Jan 1996 onwards. They have large Nos of 7. The ACR for the period 10/2003 to 08/2004 also has a large No of 6s. Thus on the basis of overall performance the applicant was not empanelled and no interference is warranted. The correct procedure was followed by the RO when he endorsed the weak remarks and communicated the same to the applicant of the impugned ACR. This assessment of RO was endorsed by the SRO. A perusal of the records indicates that no injustice has been done to the applicant. Application rejected. No costs.

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

**MANAK MOHTA**  
**(Judicial Member)**

**Announced in the open Court**  
**on the day of 12<sup>th</sup> November, 2010**