

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

T.A. No. 260/2010

[WP(C) No.15305/2006 of Delhi High Court]

Col Aneel Misra

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh.S.S. Pandey, Advocate with petitioner.

For respondents: Col. Devender Singh.

**CORAM:**

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

**ORDER  
12.03.2010**

1. The present petition has been transferred from Hon'ble Delhi High Court to this Tribunal on its formation.
2. Petitioner by this writ petition has prayed that order dated 23.06.2006 may be quashed and his ACR for the period 01.04.1998 to 31.08.1998 and ACR for the period 30.12.2001 to 31.08.2002 may be quashed and he may be considered for promotion to the post of Brigadier.

3. The learned counsel for petitioner did not press the grievance of the petitioner with regard to ACR for the period 01.04.1998 to 31.08.1998. Therefore, we are only concerned with regard to ACR for the period 30.12.2001 to 31.08.2002. During this time he was working in the operation 'Prakaram' and he was directly under the control of Brig G Dinshaw. The reporting channel was also notified on 31.12.2002 and in that DDST Brig G Dinshaw was the initiating officer. In assessment Brig G Dinshaw has given the petitioner 8 marks for over all performance and these 8 marks were reduced by the reviewing officer to 7 marks. The main contention of the petitioner is that Brig G Dinshaw was far away from him i.e. about 200/300 kms., hence, he could not have seen his performance and he was also verbally informed that he was working under the Brig Venkateshverlu. But there is no such averment in the petition that he was seeking direct instruction from Brig Venkateshverlu. All the grievance mentioned in the petition is that Brig G Dinshaw was 200/300 kms. away from him and therefore, he was not able to see his performance and as such his assessment should not be taken into consideration so as to deprive him from promotion to the post of Brigadier.

4. We have bestowed our best of the consideration on rival submissions made by both the parties and perused the original record.

5. After reading the original records, it appears that Brig G Dinshaw was the only competent person as per channel of reporting issued on 31.12.2002 and simply because he was about 200/300 kms. away from him that makes no difference but over all he was only the competent person who was to supervise his performance. He was the competent initiating officer to initiate his ACR. He has initiated the ACR of the petitioner and there is no malafide on the part of Brig G Dinshaw. Therefore, there is no ground to interfere in the ACR given by the Brig G Dinshaw. Consequently, the petition is dismissed with no order as to costs.

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

**M.L. NAIDU**  
**(Member)**

**New Delhi**  
**March 12, 2010.**