

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

**T.A. No. 407 of 2009  
(Delhi High Court W.P (C) No. 2094 of 1998)**

**IN THE MATTER OF:**

**Ex. No. 13737911 A L/Hav Ran Singh** .....**Applicant**  
Through Maj (Retd) K Ramesh, counsel for the applicant

Versus

**Union of India and Others** .....**Respondents**  
Through: Mr. Anil Gautam, counsel for respondents

**CORAM :**

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

**Order**

**Date: 5-5-2010**

1. The applicant filed a writ petition (civil) No. 2094 of 1998 in the Hon'ble Delhi High Court. The same was transferred to the Armed Forces Tribunal 16.9.2009.

2. The applicant was enrolled in the Army on 31.12.1975. He was promoted to the rank of Naik (Nk) and detailed for the cadre course for

promotion to Havildar (Hav) in 1989 which he successfully completed (**Annexure A**) The applicant was promoted to the rank of Hav on 23.5.1990. On 21.3.1991 the applicant was reverted back to the rank of Naik, retrospectively, on the ground that he was not qualified for promotion to the rank of Hav since he had not passed Hindi Class II (**Annexure C**). The applicant was informed that passing Hindi Class II must precede qualifying on Hav promotion cadre in terms of Army Order 45/80 and he was advised to qualify on the same (**Annexure H**). The applicant claims that he had passed Hindi Class II earlier while serving with J & K Rifles.

3. In May 1993 while posted in Garhwal Rifles the applicant appeared again in Hindi II and passed. Even after passing Hindi II the applicant was not promoted Hav on the grounds that he had to pass the Hav promotion cadre again.

4. On 13.6.1996 warning order (**Annexure -I** ) for the applicants superannuation in the rank of Nk with effect from 31.12.1997 and release order was issued on 11.4.1997 (**Annexure J**). He was however released on 30.6.1997. The applicant avers that he should have been

released on medical grounds which would have entitled him to a disability person. The applicant has prayed that the orders of reversion from Hav to Nk (Annexure C), letter advising him to re-qualify on Hav Cadre (Annexure H), warning orders for discharge (Annexure I) and discharge order (Annexure J) be quashed and he be promoted as Hav with all consequential benefits.

5. The respondents have not submitted a counter affidavit but during the course of arguments stated a pre requisite before attending Hav Promotion cadre was to qualify in Hindi II exam. The applicant had been incorrectly detailed on Hav Cadre and promoted as Hav since he had not qualified in Hindi II Exam. He was thus reverted to the rank of Nk. Subsequently the applicant did qualify in Hindi II exam but refused to attend the Hav cadre afresh on the grounds that he had already qualified in the same. Thus he was not entitled to get the benefit of rank of Hav.

6. We have perused the records and heard the arguments at length. The applicant was not able to establish that he had passed Hindi Class II qualification that was a pre requisite qualification for promotion to the rank of Hav. It is thus clear that the applicant was incorrectly detailed

for the Hav cadre. The applicant states that he had passed the test while serving in J&K Rifles. There is, however, no record to support his contention. Subsequently the applicant did pass Hindi Class II. He however claimed that he was never detailed for Hav cadre again despite having residual service of more than three years. The applicants cadre test result (Annexure –A) is on record. It reveals that he passed the same. We feel that the applicant deserves the redressal since he was earlier promoted Hav. In view of the fact that he had qualified in the Cadre and then in reverse order subsequently passed Hindi Class II, partial redress is warranted to meet the ends of justice. We therefore, direct that the applicant be granted notional rank of Hav with effect the date he qualified in Hindi II and be granted the pension of Hav with effect his date of superannuation in the rank of Naik. Thus application is partially allowed. No costs.

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

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

**Announced in the open court**  
**Dated: 5-5-2010**