

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

16.

O. A. No. 730 of 2010
With O.A. No. 727 of 2010
And O.A. No. 03 of 2011

Hav (SKT/GS&C) Rajesh Roshan
Hav Manuendra Kumar Singh
Hav Rajender Singh

.....Petitioners

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. P. D. P. Deo and Ms. Monica Nagi, Advocates.
For respondents: Sh. Ankur Chhibber, Advocate. [O. A. No. 730 of 2010]
Sh. Anil Gautam, Advocate. [O. A. No. 727 of 2010]
Sh. Anil Gautam, Advocate. [O. A. No. 03 of 2011]

CORAM:

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

HON'BLE LT. GEN. S. S.DHILLON, MEMBER.

ORDER
01.06.2011

1. In all these three cases, common questions of law and facts are involved. Therefore, they are disposed of by common order.

2. For convenient disposal of all the cases, facts given in the case titled as Hav. (SKT & GS&C) Rajesh Roshan Vs. Union of India & Ors are taken into consideration.

3. The petitioner, by this petition has prayed that the respondents may be directed to consider the petitioner for promotion to the rank of Naib Subedar from the

original vacancy meant for Sepoy SKT and he be given back date seniority and the over age may not come in his way for promotion as he is not responsible for the overage.

4. The petitioner was recruited in the Indian Army on 22.2.1985 as Sepoy SKT trade. In 1987, he became L/Nk and became Havildar from 1.1.1991. During 1984-85, a direct recruitment for the post of Havildar was introduced and reserved all 25% posts from the cadre of Havildar to be filled up from the direct recruitment of the persons with graduate degree and other qualifications. This direct recruitment procedure continued upto 1992 and thereafter it was discontinued. The petitioner came to know that persons recruited as direct Havildar SKT in 1985 or so and subsequently i. e. after he was recruited, have been promoted to the rank of Naib Subedar from 1999/2000 onwards and have kept on getting the promotions. However, the petitioner was not promoted to the post of Naib Subedar.

5. Reply has been filed by the respondents and the respondents have submitted that during 1984-85, a direct recruitment for the post of Havildar was introduced and reserved 25% posts of the cadre of Havildar to be filled up from the direct recruitment of the persons with graduate degree and other qualifications. This direct recruitment procedure continued upto 1992 and thereafter it was discontinued. So far as the petitioner is concerned, he could not be promoted to the post of Naib Subedar because he could not make it in the seniority as well as because of his awarded punishment "deprived the paid acting rank of Havildar" on 18.3.1992 and consequently, he was re-promoted to the post of Havildar w.e f. 1.4.1993. On

account of the punishment, he lost the seniority from 1.1.1991 to 1.4.1993 and because of this, he could not come up for consideration for promotion to the post of Naib Subedar till date. Therefore, no injustice has been done to the petitioner.

6. We have heard learned counsel for the petitioner and perused the record.

7. The fact is that if the Government wanted to introduce a direct recruitment for the post of Havildar, the petitioner cannot make any grievance out of it. In that policy, they decided that 25% from the cadre of Havildar was to be reserved for direct recruits. The recruitment of Havildar continued till 1992 and was discontinued thereafter. It was the prerogative of the respondents to frame the policy and change it as and when the exigencies of the service so required. In fact, the policy which was introduced for direct recruitment of Havildars in 1984, also contemplated that the persons who are working as Clerks could also apply and compete for the post of Havildar. The petitioner did not do so. Had the petitioner been very keen to be promoted against that recruitment quota, he could also have applied for that post but he did not do so. However, the fact remains that the respondents decided to fill up the post of Havildar with graduate qualifications along with other qualifications and no fault can be found in it. It is the prerogative of the Government to lay down policies and to change them also. The said policy was introduced in 1984 and was discontinued in 1992. During this time, the petitioner was in service. He could have applied for the post of Havildar for direct recruitment, if so desired to the post of Naib Subedar but he did not do so.

8. In this view of the matter, we do not find any merit in these petitions.

Consequently, all the petitions are dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

S. S. DHILLON
(Member)

New Delhi
June 01, 2011