

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

06.

O. A. No. 9 of 2011

Major Vivekanand Choudhary

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: S/Sh. A. S. Chauhan & Amitava Chauhan, Advocates.  
For respondents: Sh. R. Balasubramanian, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER  
10.3.2011

1. The petitioner, by this petition has prayed that the case of the petitioner for grant of an extension should be reviewed and the order rejecting his extension in service may be quashed.
2. The petitioner is a Doctor, who was selected in the Short Service Commission and appointed as a Commissioned Officer on 13.3.2001 for a period of five years and he was given extension for a period of five years but for the remaining period of four years, when he was medically examined, it was found that he was not in SHAPE-1, therefore, extension was not granted to him. Hence, he filed this petition.
3. Reply has been filed by the respondents, wherein the respondents have pointed out that as per the criterion for grant of extension, the incumbent should be in SHAPE-1 and since the petitioner is not in SHAPE-1, therefore, his services have not been extended for another period of four years.

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4. We have heard learned counsel for parties and perused the record.

5. Learned counsel for the petitioner submits that his extension has wrongly been denied. He has submitted that the Permanent Commissioned Officers can be allowed to continue even if they are in SHAPE-2 but his extension is withheld as he is not in SHAPE-1 and this is clear discrimination. In this context, learned counsel for the petitioner invited our attention to the decision of the Apex Court in the case of **Ganga Ram Moolchandani Vs. State of Rajasthan & Ors. Dated 17.7.2001.**

6. We have bestowed our best consideration to this matter. There is no discrimination in the present case. The petitioner had been appointed by way of Short Service Commission as against the persons who are regular Commissioned Officers. A person who is appointed by way of Short Service Commission is required to continue upto 14 years i. e. firstly for five years, secondly again for five years and further for a period of four years subject to his being medically in SHAPE-1, whereas a regular Commissioned Officer is required to continue till he is superannuated. So both the recruits are not similarly situated. Therefore, there is no question of granting extension to the petitioner as per his service conditions. The judgment cited by the learned counsel for the petitioner has no relevance in the present context. As the petitioner is not in SHAPE-1, so his extension has not been granted. We find no irregularity in the impugned order. There is no merit in the present petition. The same is accordingly dismissed. No order as to costs.

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

**S.S. DHILLON**  
**(Member)**

**New Delhi**  
**March 10, 2011**