

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

O.A.No. 372 of 2010

Hav. Vinod Kumar

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Sh. K. Ramesh, Advocate.

For respondents: Sh. Ankur Chhibber, Advocate.

CORAM:

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

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

ORDER  
02.02.2011

1. Petitioner by this petition has prayed that respondents may be issued directions to call for the ACR Dossier of the petitioner to verify the date of signature of the petitioner as 11<sup>th</sup> January 2005 on the ACR of 2003-2004 and if found to be legally defective in terms of Army Order then the impugned ACR may be set aside and the petitioner may be duly promoted to the rank of Nb. Sub. with ante dated seniority and back wages.

2. Petitioner was enrolled as a Sepoy on 19<sup>th</sup> December 1984 and then he was promoted to the post of Hav. Then the question for his promotion to the post of Nb.Sub. came up and his case was considered and he was not found suitable and, therefore, he filed present petition with aforesaid grievance.

3. Though no reply was filed by the respondents however respondents made the entire record available for our perusal and costs was also paid to the other side.

4. The grievance of the petitioner was that his adverse ACR was not communicated to him and, therefore, the ACR of 2003-2004 should not have been taken into consideration. It is submitted that the adverse ACR which affects the promotion of JCOs and NCOs should be communicated and shortcoming should be brought out and the person concerned should be informed and he is required to show improvement within 60 days and he should be given fair opportunity and due guidance to show his improvement and his signature should be obtained. In the present case we called the ACR of the petitioner and we found that the petitioner has secured average marking. Therefore, it is not an adverse ACR so as to be communicated to the petitioner or any warning is required to be given to him. In this case neither the adverse pen picture has been given therefore it was not necessary to have communicated to the petitioner any ACR. It is only the adverse ACR and adverse pen picture which affects his promotion is required to be communicated to the ratee so that he could improve upon. But in the present case we have gone through the original records which shows average marking and there is no adverse pen picture given in any of the period under consideration. Therefore the communication was not necessary. Petitioner was considered by the Selection Committee and since he could not make the grade on account of his ACR, therefore, he was not promoted to the next higher post.

5. Consequently, we do not find any merit in this petition and the same is accordingly dismissed with no order as to costs.

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

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

**New Delhi**  
**February 02, 2011**