

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
07.

O.A. No. 214 of 2011

Col IPS Rana

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mrs. Rekha Palli with Ms. Poonam Singh, Advocates.
For respondents: Mr. R. Balasubramanian, ASG.

CORAM:

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

ORDER
03.04.2012

1. Petitioner by this petition has prayed that the order dated 10th August 2010 whereby Petitioner's statutory complaint has been rejected may be quashed and CR for May 2000 to September 2000 and for April 2001 to August 2001, SROs portion of CR of September 2001 to August 2002, ROs and SROs portion pertaining to September 2004 to August 2005 and SROs portion pertaining to September 2005 to August 2006 may be set aside and Respondents may be directed to reconsider the case of the Petitioner by the Selection Board No. 02 for promotion from the rank of Col. to Brigadier.
2. The Petitioner was commissioned in the Army on 7th June 1980 and with the passage of time he rose to the position of a Col. on 23rd May 2000. His case was considered for promotion from Col. to Brig. by the Selection Board in September but he could not make it even in second look in 2008 he could not make it and also in third look in 2009 he could not make it. Therefore he filed a statutory complaint and after rejection of statutory

complaint on 10th August 2010 he has filed the present petition before this Tribunal challenging the CRs written by the RO and SRO.

3. Learned counsel for the Respondents has raised a preliminary objection that challenge to all those CRs is belated at this distance of time as according to Section 22 of the Armed Forces Act, 2007 the limitation is for a period of six months and the CRs which Petitioner is challenging is of the year 2000 which cannot be entertained at this distance of time.
4. Secondly, learned counsel has also raised the issue notwithstanding the fact that the CR written by the RO i.e. Maj. Gen. AW Ranhbise for the period 24th May 2000 to 3rd September 2000 has been expunged. Petitioner has not raised a specific argument in the petition that the SRO's remark which has been on the basis of the RO's remark should have been reconsidered after the RO's remark have been expunged on 22nd August 2001. The Petitioner in this petition has challenged that the CR written by the RO for the period 24th May 2000 to 3rd September 2000 having been expunged and the SRO has made his assessment on the basis of the remark of the IO and RO felt influenced by the remark of the RO and for which it should have been reviewed for the same from 22nd August 2001. The argument of learned counsel for the petitioner is attractive but the unfortunate part is that there is no such averment made by the Petitioner to this effect in his petition. However the submission of learned counsel for the Petitioner should be appreciated for the future that in such cases when once the remark given by the IO or RO is expunged then the higher authorities who are either RO or SRO who writes the ACR that should be reviewed back by them because the

basis on which they write the CR has an influence on them when they made their assessment as RO/SRO. Therefore it is fair enough that authorities should keep in view when such a situation arises that the RO's remark is expunged then in that case the fresh reaction of the SRO should be sought because normally as a human being the SRO is bound to be influenced by the remarks given by the RO. Be that as it may, the issue is now no more to be determined in the present case because there is no such averment in the petition. However for the future guidance the authorities should keep this aspect in view. Since this argument is not found mentioned and this has been taken up by the oral submission made by learned counsel for the Petitioner at a belated stage, therefore, we are not inclined to interfere on this issue so far as the present case is concerned. This petition has been filed after the Petitioner could not make it in the last look in the year 2009 and the petition has been filed in 2011 at this distance of time. Therefore, we do not want to disturb the persons who have already been selected at this belated stage. Normally a promotion of such nature should be challenged within reasonable time and at least within the limitation prescribed under Section 22 of the Act. Hence, we do not find any merit in this petition and same is dismissed with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
April 03, 2012
dn