

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

14.

O.A. No. 216 of 2011

Col. Paramjit Singh Mavi

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Naresh Ghai, Advocate.

For respondents: Mr. Ankur Chhiber, Advocate

CORAM:

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

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

ORDER
12.01.2012

Petitioner vide this writ petition has prayed that the order dated 28.10.2010 may be quashed and petitioner may be called back and treated in service up to 30.04.2012 with all consequential benefits.

Petitioner was commissioned in the Territorial Army, a part and parcel of the Army on 22.05.1993 with ante-dated seniority/reckonable service w.e.f 20.06.1987 being ex-SSCO and due to his meritorious profile including Army Commander's Commendation Card was selected as Colonel in the first go by the M.S. Branch's Selection Board and being at 7th position in the TA as on 01.04.2010, was posted as Commanding Officer (CO) w.e.f. 01.08.2008 of 127 Inf Bn TA Eco which was raised on 01.12.1982 out of one of the undernoted 12 posts tenable by Col vide MoD letter dated 17.10.2008. The grievance of the petitioner is that since there were 12 posts of Colonel (Substantive) and petitioner was at 7th position in the service, he should be allowed to continue up to 56 years of age and he should be retired as Colonel

because he was heading a Battalion and Battalion is normally headed by a Colonel.

A reply has been filed by the respondents and it is submitted that the Territorial Army Eco are not permanent. It is also submitted that vide sanction dated 18.01.1996 issued by the Government of India, four posts of substantive Colonel in the Territorial Army have been created. Since the petitioner's position was at no. 7th as Acting Colonel on completion of age of 54 years, he could not be promoted as Substantive Colonel in Territorial Army. In Para 14(c) of the Territorial Army Act 1948 (Revised Edition 1976), it is clearly mentioned retiring age to the rank of Lt Col/Colonel is 56 years or 4 years tenure whichever is earlier but not before 54 years of age. Since there was no permanent vacancy, petitioner could not be made permanent and as such after attaining age of 54 years, he has been retired as Acting Colonel Substantive Lt Col.

Learned counsel for the petitioner strenuously urged before us that these Territorial Army Eco are in existence sine 1982 and each Battalion is to be headed by the Colonel and petitioner was working as a Paid Acting Colonel heading the unit and still he was treated as Paid Acting Colonel and no substantive rank has been given.

So far as the facts of the case as they stand, there are only four permanent vacancy which have been sanctioned by the Army HQ vide letter dated 18.01.1996. After going through the record, we are satisfied that there are only four substantive vacancy but the fact remains such kind of Battalion are continuing for such a long time. It is the high time now that Government should realize that they should make these Battalions permanent. Such temporary arrangement, affects career of a person, therefore, Government

should consider to either make these Battalions permanent or the persons who are working in these Battalions should be given their due promotion and they should be retired after completion of their tenure.

So far as the present case is concerned, there are four posts of substantive Colonel in the TA and petitioner was at no. 7, therefore, he has been treated as Acting Colonel Substantive Lt Col at the time of his retirement.

Hence, we do not find any merit in the case. The petition is accordingly dismissed. No order as to costs.

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

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

**New Delhi
January 12, 2012
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