

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

8.

O.A. No. 502 of 2011

Lt. Col. Om Prakash Chauhan

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.S. Pandey, Advocate.

For respondents: Lt. Col. Maneesh Kumar.

CORAM:

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

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

ORDER

27.09.2012

1. Petitioner by this petition has prayed that the order dated 5th April 2011 passed by Respondents may be quashed whereby the Petitioner's statutory complaint was rejected and likewise he has prayed for removing the assessment of Reviewing Officer and Senior Reviewing Officer in the CRs covering the period from November 2001 to May 2002 and assessment of Senior Reviewing Officer in the CR for the period covering from November 2003 to May 2004 with further direction to promote the Petitioner to the rank of Col with all consequential benefits.

2. Petitioner was commissioned in Indian Army on 13th June 1992 in the Corps 15 Bihar Regiment. Thereafter with the passage of time, he became Lt. Col. after completion of 13 years of service and then his case came up for consideration for the post of Col. but he could not make it. Therefore, he filed the present petition.

3. The grievance of the Petitioner is with regard to two ACRs i.e. for November 2001 to May 2002 and November 2003 to May 2004. So far as the ACR for the period November 2001 to May 2002 is concerned he has challenged the remarks of the RO and SRO and for November 2003 to May 2004, he has challenged the remarks of the SRO.

4. The Respondents have contested the matter and raised the objection that since he has not challenged the ACRs of both the period and filed the petition at a belated stage, it should not be entertained. They have also contested that there is no subjectivity or inconsistency in the rating of the RO or SRO for both the periods and they have fairly placed before us the ACRs of the concerned periods for our perusal.

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

6. Learned counsel for the Petitioner submits that for ACR of 2001-02, the IO has given him very good ACR and same was watered down by RO and SRO. We have checked up the remarks and we find that it is true that IO and RO both have given him good ACR including the SRO also and the box grading has been given by IO and RO as 8 and by SRO as 7 though the pen picture has been given of the Petitioner is commendable. This is the assessment of the SRO which is always on the basis of the remarks of the IO and RO. Once the SRO has given an objective assessment on the basis of the remarks given by the IO and RO, it is not always necessary that he should endorse them in totality. The decision of SRO, as a superior officer, who has long experience of assessing various qualities of the incumbent and on that

assessment he makes his own valuation and give marks. He has not given him any adverse remarks. He has given him 7 marks after consideration of marks of IO and RO, therefore, that cannot be faulted in any manner. Now the Petitioner has challenged both these ACRs for obvious reasons that he does not know what remarks has been given by RO and SRO. However, if the remarks would have been adverse, he would have been communicated. He felt bad when he was not selected for the post of Col and, therefore, he made grievances on the presumption that perhaps on some facts which he apprehended, had dissuaded RO and SRO to downgrade him. But these facts were not disclosed in statutory complaint and, therefore, we cannot dilate on them whether apprehension of Petitioner is misplaced.

7. Now coming to ACR of 2003-04, we have examined the assessment of IO, RO and SRO also. IO and SRO has both given him very good marks and given him box grading of 8. However, the SRO has given a very good pen picture but given him box grading of 7. It is the assessment of the SRO and that cannot be faulted. He is a senior officer and his assessment is on the basis of the material placed before him. To say that he was very stricter as against other persons, there is no reason to find fault with his assessment. It always depends from person to person some are liberal some are strict but he cannot be strict for one and liberal for other he remains uniform for all. Therefore, on the ground that he is strict and he has given a very conservative assessment, such presumption cannot be countenanced. Learned counsel further submits that there is inconsistency. There is no inconsistency as previous SRO has also given him a box grading of 7 and present SRO has also given him after consideration of the merit of the Petitioner by IO and RO,

the box grading of 7. The SRO does not know the previous ACR. He is a new person who made assessment and given 7 marks though it coincides with the assessment of previous SRO also which is not challenged by the Petitioner to be stricter. Therefore, nothing turns on the ground that SRO for 2003-04 was very strict. The marking of 2003-04 of the SRO also coincides with the marking given by SRO of 2001-02 also. Therefore, it appears to be consistent and there is no inconsistency in the assessment of the RO or SRO. Hence, the Petitioner was duly considered by the Selection Committee and he could not make it and, therefore, he could not be selected.

8. 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
September 27, 2012
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