

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

05.

T. A. No. 342 of 2009

Writ Petition (Civil) No. 4046 of 1997

Hony. Lt. Madho Ram Kaundal

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Akhil Sachar, Advocate.

For respondents: Dr. S.P. Sharma, proxy for Dr. Ashwani Bhardwaj,  
Advocate.

CORAM:

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

ORDER  
01.03.2012

1. This petition has been received on transfer from the Hon'ble Delhi High Court after the formation of this Tribunal.
2. Petitioner by this petition has prayed that the Respondents may be directed to produce and disclose before this Hon'ble Court, the marking system and guidelines including the qualitative requirements considered/adopted in evaluating the case of deserving candidates for the grant of honorary commission during service and honorary rank after retirement.
3. Petitioner was enrolled in Indian Army on 15<sup>th</sup> September 1965 and he retired on 1<sup>st</sup> April 1996. During this time the Petitioner had several assignments at various places in the country and abroad. Petitioner submits

that approximately for two and a half years he has served with a Colonel of his regiment at the Army HQ but the points for this assignment has not been awarded to him. The Colonel of the Regiment when the Petitioner was serving and assisting at the Army HQ was headed by rank of Maj.Gen. He has also made a grievance that he has served in Indian Embassy in Riyadh for 3 years and 123 days and these foreign postings are given to the service men who has exceptionally above average record and who has completed the examination with merit grades. Petitioner has given break up of his service profile at various places with duration. The main grievance of the Petitioner is that despite his best of the performance he has not been able to secure honorary commission during his service. However he did get the honorary commission after his retirement i.e. in August 1996. Therefore the Petitioner has been driven to file the present writ petition before the Hon'ble Delhi High Court which has been transferred to this Tribunal after its formation.

4. A reply has been filed by the Respondents and the Respondents have taken a position that the Petitioner's case was recommended by his unit and by his records office in August 1995 and January 1996 but at the Army HQ he could not make it in the merit. So far as the disclosure of the guidelines are concerned, the Respondents have submitted that the guidelines cannot be disclosed as it is a secret. Today the Respondents have placed before us the nominal roll of JCOs recommended for grant of honorary commission in August 1995 and in that it is pointed out that the last person who has been approved for grant of a honorary commission was Issar Singh of Rajputana Rifles and the cut off marks was 2557 and the Petitioner secured 2365 marks and similarly for January 1996 the last person who had been approved for the

recommendation of honorary commission was Prakash Singh of Dogra Regiment and the cut off marks was 5264 and the Petitioner secured 5130 marks. Therefore at both the times the case of Petitioner was considered but he could not make it and he lost it by very small margin.

5. Learned counsel for the Petitioner has submitted that since he was serving under the Maj. Gen. therefore he has been denied the necessary marks for working at Army HQ assisting to the Maj. Gen and it is unfortunate that marks are awarded for serving under Lt. Gen. This misfortune of the Petitioner that at the time when Colonel of the Regiment was being headed by a Maj. Gen. that cannot be helped because at the relevant time the Colonel of the Regiment was of the rank of Maj. Gen. as these are the exigencies of the service. Learned counsel next submitted that he served in Riyadh for 3 years and 123 days. We are not aware what are the guidelines and whether the foreign posting is given mark for it or not since the Respondents have submitted that this is a secret guideline and it cannot be placed on record. If this is a secret then we cannot help it but normally transparency should have been maintained by the Respondents by disclosing the guidelines which cannot be said to be such a secret thing and it should have been placed on record. Be that as it may, they have not placed it on record and, therefore, we do not have the benefit of going through the guidelines which are required for grant of a honorary commission. The fact remains that Petitioner has served in Riyadh for 3 years and 123 days and whether this merits the marking or not we have no clue of it. Therefore in these circumstances we direct that if the foreign posting of the Petitioner merits any points for consideration for grant of an honorary commission then his case may be considered by the

Respondents and they may pass an appropriate order in accordance with law. If the foreign posting merits certain point and after adding that points the points of the Petitioner increase than the last person who has been granted honorary commission in August 1995 and January 1996 then the Petitioner should also be considered for grant of an honorary commission during that time. The Respondents are directed to complete this exercise within a period of three months.

6. With these observations, the petition is disposed of. No order as to costs.

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

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

New Delhi  
March 01, 2012  
dn