

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

11.

T. A. No. 345 of 2010
Writ Petition (Civil) No. 5956 of 2002

Flt Lt. Deepti Seth

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Karan Singh Bhati, Advocate.
For respondents: Mr. Ankur Chhibber, Advocate.

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

ORDER
02.04.2012

1. Petitioner by this petition has prayed that the order dated 2nd November 2001 deciding the representation for grant of extension may be quashed. She has further prayed that the AR of the Petitioner for the period March 1999 to December 1999 written by Gp. Capt. S.S.Mehta may also be quashed and the date of her release may also be consequentially set aside and she may be given the consequential benefit thereof.

2. Petitioner is a lady officer. She was inducted into Air Force by way of Short Service Commission on 21st December 1996 for a period of five years extendable by six years. She continued for a period of five years and that during the period of 1st April 1999 to 22nd December 1999 unfortunately she was working under Gp. Capt. Mehta at Bareilly. There she conceived in September 1999 and she gave birth to a baby on 30th May 2000. But during this time she has been given a marking of 4.1 but prior to that and subsequent

to this she has been given a marking of 5 to 6. However when the question came of her further extension she could not make it on account of the ACR for the period from 21st April 1999 to 27th December 1999. She has alleged that Gp.Capt. Mehta who was at that time his immediate IO and has given her that assessment because of pregnancy. Her performance might have gone little low and therefore her rating should have been properly moderated by the AHQ looking to her preceding performance but that has not been done. She has made an allegation against Gp. Capt. Mehta that during this time he harassed her and put her to unpleasant jobs.

3. An affidavit has been filed by Gp.Capt. Mehta denying the allegations and he has stated that he has treated her with great consideration as she was pregnant and he made his observations objectively. Learned counsel for the Respondents has placed before us the original ACR and in that we have seen that she has been given 4.1 marking which has been confirmed not only by RO but SRO also and she has been given counselling on 22nd April 1999, 16th June 1999, 8th September 1999 and 14th October 1999. We can appreciate that during the pregnancy her efficiency might have gone low, she conceived in September 1999 but she was given counselling prior to pregnancy that her performance was not satisfactory. However, in order to satisfy ourselves we have gone through her earlier ACR for 1998 also. There also she has been constantly counselled but still she has secured 6.5 marks. Subsequently, in 2000 and 2001 she has been counselled and there also she secured 6.2 marks. There is a counselling given to her on 1st May 2000, 30th September 2000 and 15th December 2000 that show that Respondent Gp.Capt. Mehta seems to have not given his assessment malafidely or for any malicious

reason, it is his objective assessment of the performance of the Petitioner. We have full sympathy for the lady when she was pregnant and as stated by Gp. Capt. Mehta that he has given her full consideration but despite this she did not improve. The counselling was given to her in 1998, 1999 and then in 2000 she has been constantly counselled to improve but despite that there has been no improvement. Therefore the marking given by Gp.Capt. Mehta of 4.1 cannot be said to be malafide so as to expunge the same. This counselling has been confirmed by the RO and SRO also. Had she been in any manner uncomfortable with Gp. Capt. Mehta during the pregnancy, she could have filed a complained to the superior authority but we do not find anything to this effect. Hence to say that Gp. Capt. Mehra harassed her or treated her malafidely cannot be accepted. Nor we can say that the assessment given by Gp. Capt. Mehta of 4.1 can be vitiated on any Court. Therefore the consideration of the incumbent for further extension on the basis of this ACR cannot be said to be bad on this ground.

4. Consequently, 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 02, 2012
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