
(1999) 05 DEL CK 0098
In the Delhi High Court
Case No : C.W.P. No. 2335/97

Maj. Ram Mehar Singh

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 01-05-1999

Acts Referred:

Citation : (1999) 50 DRJ 543

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Raju Ramachandran and Jasmeet Singh, for the Appellant; B.P. Aggarwal and Neera Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

K. Ramamoorthy, J.—The petitioner, who is working as Manager in the Military Farm Corps, has filed the writ petition claiming the following reliefs:-

"The petitioner, Therefore, most respectfully prays that this Hon''ble Court may be graciously pleased to issue a writ in the nature of mandamus, certiorari or any other appropriate writ, order or direction declaring:-

- a. That the variables for the, year 1983 be expunged from the ACR of the petitioner.
- b. The ACR for the year 1985-86 and ICR for the year 1986-87 be set aside.
- c. The petitioner be granted promotion with retrospective effect since July 1994 with the consequential benefits."

2. In the writ petition the petitioner has related about his performance in his career and also the award of punishment of Reprimand was cancelled by the Competent Authority and according to the petitioner the Selection Board had not taken into account in its proper perspective the service record and that has affected the consideration by the Board of his case for promotion. Inter-alia, he has mentioned in the petition that there had been inconsistency between box

grading and pen picture and that is the reason why he had prayed for the reliefs. According to the petitioner, this was not considered by the Competent Authority while considering his statutory complaint. In para 8 of the petition, he has given the variables:-

Year Box Grading Pen Picture

1981 8 Capt RM Singh is a smart, handsome and well turned out officer. He is dependable, intelligent and diligent. He is a willing worker and takes additional responsibilities cheerfully. He is a capable manner and administers a given task with zeal and personal involvement. The officer mixes well and is popular amongst his colleagues.

1982 8 Capt RM Singh is a smart and intelligent young officer who has performed duties as signed to him effectively and willingly. The officer is receptive, inquisitive and clear headed. He is amicable, systematic and expressive and has lot of common sense. He is fairly quick in taking decisions and is clever, assertive, industrious, obedient and pushing. Professionally, the officer is well up in his technical knowledge and has made a considerable contribution to the arboriculture effort in the station.

1983 7 An able and intelligent young officer who is very well mannered and possesses lot of in application. He takes responsibilities cheerfully and willingly and is an able colleague. Professionally, the officer is well up in his knowledge particularly in the field of arboriculture and takes keen interest in such activities in the Comd HQ."

3. On 12.6.1996 the Complaint Advisory Board Annual Liaison Letter 1996 was issued and therein this aspect of inconsistency reporting has been dealt with. According to the petitioner, he did not challenge the wide variations in the box grade and the pen picture and it is only after 12.6.1996 he had come to challenge the same. According to the petitioner, this Advisory Board's letter 1996 would have retrospective operation and applicable to the petitioner. The petitioner also touched on the point that there was delay in initiating ACR by the Initiating Officer for the year 1986-87 and that had affected his progress in the career.

4. In the counter affidavit filed by the respondents, it is stated :-

"Promotion in the Army up to the rank of Major are by time scale. Promotions from Major to Lt. Col and above are through Selection Boards (policy contained in para 108 of the Regs. for the Army, 1987 and Army HQ Letter No 31525/P/MS 5B dated 06 May 87. All the officers of a particular batch are considered together with the same cut off ACR and inputs and on the basis of the individual profile of the officer and the batch merit, they are approved/not approved. Seniority in itself is no consideration before the SB for approval or non approval. Similarly, ACR alone is not the sole input before the SB Para 10 of the policy letter dated 6 May 87 refers. The selection is not done on the basis of vacancies. Approved

officer are empanelled and then promoted in the order of seniority, as and when the vacancies occur. The selection board recommendations are subject to the approval of the competent authority (i.e. the COAS for the promotions from Major to Lt. Col.). In order to maintain objectivity and fairness, the identity of the officer under consideration is not disclosed to the Board members. In case any officer gets any relief through complaint etc in any CR or punishment after the board has been held he is entitled to a special corresponding consideration by board with his changed profile and in case he is approved by such special consideration, his original seniority remains protected. As per the applicable policy each officer is entitled for three consideration only for promotion to the selection rank i.e. from Major to Lt. Col. and above- namely fresh consideration, first review and final review. In case an officer is not approved as fresh case but approved as first review or a final review case he loses seniority accordingly vis-a-vis his original batch. After three consideration if an officer is not approved he is deemed to be finally superseded.

The assessment officers in ACR is regulated by SAO 3/S/89 and other relevant policies at any given time. The grading are numerical from 1 to 9 (overall as well as in personal qualities performance variable in different qualities) and in the form of pen picture also. The entire assessment of an officer in any ACR consists of assessment of various reporting officers whose assessments are independent of each other.

3. In the case of the petitioner, the details of Selection Board No 4 (Major to Lt Col) are as under-

S. NO. Year Held Result

- (i) Fresh July 94 Rejected
- (ii) Fresh Review Nov 94 -do-
- (iii) Final Review Feb 95 Withdrawn
- (iv) -do- Aug 95 -do-
- (v) -do- Dec 95 -do-
- (vi) Spl Review Fresh Feb 96 Reject
- (vii) Spl Review First July 96 -do-
- (viii) Spl Review Final Nov 96 Withdrawn
- (ix) Spl Review Final Feb 97 -do-
- (x) Spl Review Final Aug 97 Board under progress

* Punishment of reprimand awarded on 13 Sept 94 set aside vide GOC-in-C, Central Command order dated 4 Dec .95."

5. Mr. Raju Ramachandran, the learned senior counsel for the petitioner, referred

to this Complaint Advisory Board Annual Letter 1996 and he relied upon the following rulings:

1. State of U.P. Vs. Yamuna Shanker Misra and another, .
2. U.P. Jal Nigam and others Vs. Prabhat Chandra Jain and others, .
3. Major General R.S. Taragi Dy. Commandant vs Union of India and others 1995 (1) SLR 471.
4. Lt. Colonel S.P. Kapoor vs Union of India and another 1990 (4) SLR 142.

6. I have perused the records. From the records it is clear that the Selection Board had considered the case of the petitioner in the light of his performance and suitability and the petitioner cannot complain that there has been any illegality or irrationality in the action of the Selection Board. The grievance of the petitioner that there had been delay in the initiation of the ACR cannot be put forth in the light of the consideration of his case by the authorities concerned. The petitioner cannot seek to challenge the box grading and the pen picture in the light of the Complaint Advisory Board letter the competent authority had taken into account all the relevant aspects and had rejected the statutory complaint.

7. I do not find any error apparent on the face of record. The principles laid down in the case referred to by Mr. Raju Ramachandran, the learned senior counsel for the petitioner, in my view, do not apply to the facts of the instant case. I am quite unable to accept the submissions made on behalf of the petitioner and accordingly, the writ petition stands dismissed. There shall be no order as to costs.