

SEE RULE 102 (1)
ARMED FORCES TRIBUNAL, KOLKATA BENCH
T.A. No. 5 of 2014
Arising out of
(Arising out of W.P.(C) No. 4029/2002)
THIS DAY 29th FEBRUARY, 2016

CORAM

HON'BLE JUSTICE N. K. AGARWAL, MEMBER (JUDICIAL)

HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (ADMINISTRATIVE)

APPLICANT(S)

Narayan Chandra Mohanty, aged about 46 years, S/o/ Late Sanatan Mohanty, of Village-Naganpur, PO. Kudanagari, P.S. Patkura, Dist. Kendrapara, Designated as Naib Subedar (JC-326245-M), and working JE, B/R, Grade-II, under AGE, B/R, Paradeep, C/o. Coast Guard, DHQ-7, Paradip, At/PO/PS. Paradip, Dist. Jagatsinghpur.

Versus

RESPONDENT(S)

1. **The Union of India**
through Ministry of Defence
through Secretary Defence
Govt. of India, South Block,
Central Secretariat, At/PO/PS,
New Delhi.
2. **Chief of the Army Staff,**
Army Head Quarter,
PO. DHQ, New Delhi-11.
3. **Engineer-in-Chief, E in C'/S Branch-Army Head**
Quarters, PO. DHQ, New Delhi, 100011.
4. **Head Quarters Chief Engineer,**
Southern Command, Pune. I, 411001.
5. Chief Engineer (Navy), Visakhapatnam Station Road,
Visakhapatnam-4, 530004.
6. Garrison Engineer (I) Chilka,
PO. NTC Chilka, Dist. Khurda, Pin-752037.
7. Asst. Garrison Engineer, B/R. Paradip,
C/o. Coast Guard, DHQ-7, Paradip,
At/PO/PS. Paradeep, Dist. Jagatsinghpur-754142.
8. O.I.C., Records, BEG Centre, Rorkee-67
247667 U.P.

For the Applicant(s) : Mr. Bisikesan Pradhan
 For the Respondent(s) : Mr. Anup Kumar Biswas

O R D E R

PER HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (ADMINISTRATIVE)

1. This is a transferred application arising out of Writ Petition (C) No. 4029 of 2002 in the Hon'ble High Court in Orissa at Cuttack.
2. The case pertains to non-consideration of the applicant for selection to the rank of Subedar B/R Grade-I in the year 2002. The applicant averred that he was illegally debarred for consideration due to personal grudge borne by opposite party against him.
3. The crux of the case is that the applicant enrolled in the Indian Army (Corps of Engineers) on 9.9.1974. He progressed through various ranks in his service and was promoted to the rank of Naib Subedar on 02.04.1996 with seniority with effect from 1.10.1995. He was then due for promotion to Subedar.
4. Three DPCs were held in respect of the applicant, the details of which are as under :-

Month	Year	ACRs considered	Result
April	1999	1996, 1997 and 1998	Not recommended
May	2000	1997, 1998 and 1999	Not recommended
September	2001	1999, 2000 and 2001	Not recommended.

5. So, in the year 2002 for the next DPC, his next fresh input i.e. ACR June 2001 to May 2002 was to have been taken into account. However, it was not received and hence he was not considered by this DPC and accordingly retired on 30.9.2002.
6. All the original ACRs of the applicant have been placed before us by the respondents. From the perusal of ACR 2002 (it covered the period from June 2001 to March 2002) it is seen that the ACR has been initiated by the I.O. on 18.9.2002. However, it is noted that the I.O. received it complete with relevant data filled in only on 11.9.2002 and subsequently it was reviewed by the R.O. on 25.9.2002. This ACR was received in the Record office, BEG Rorkee

on 4.10.2002 i.e. four days after retirement of the applicant and, hence, his name could not obviously be included in the DPC of 2002.

7. During the course of oral arguments the plea by the learned counsel for the applicant is that as the ACR was deliberately delayed by the respondents, he (the applicant), should be considered by the DPC and if found fit for promotion be granted notional promotion with all consequential arrears and benefits.

8. The respondents' counsel, on the other hand, has argued that the impugned ACR was delayed on account of the applicant's attitude and negligence and that he himself was responsible for such delay in submitting the form and is now raising the blame upon the authorities concerned for his laches.

9. Be that as it may, we consider that ends of justice would be served if this impugned CR i.e. June 2001 to March 2002 in respect of the applicant be considered by the authorities in accordance with the rules and regulations on the subject by a special DPC ordered for this purpose along with the other Naib Subedars who were considered in 2002, and the result be communicated to the applicant. If the applicant is found to be fit for promotion to Sudedar, he be granted notional promotion and all consequential benefits from the date his notional promotion would be effective.

10. With the above, the TA No. 5 of 2014 is disposed of accordingly without any order as to costs.

11. Let a plain copy of this order be given to both parties, duly countersigned by the Tribunal Officer, after observance of usual formalities.

(LT GEN GAUTAM MOORTHY)
Member (Administrative)

(JUSTICE N.K. AGARWAL)
Member (Judicial)

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