

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF MARCH  
TWO THOUSAND AND EIGHT

PRESENT

**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**  
**WRIT PETITION NO : 25356 of 1996**

Between:

Mohinder Singh, s/o. Late Sardar Teja Singh, Resident of H.No. 1-30-140,  
Sainagar, M.D.Farm, Trimulgherry, Secunderabad- 15.

**..... PETITIONER**

AND

1 Union of India, rep by its Director General of E.M.E. (E.M.E. Pers)  
Master General of Ordinance Branch, Army Head Quarters , New Delhi -  
110001.

2 E.M.E. Centre, Bhopal, Represented by Brigadier, Bhopal.

3 The Chief Record Officer, E.M.E. Centre, Records, Secunderabad,  
Hyderabad.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd Respondent in issuing Letter No. 1506/C-2/2 (M.P.), 02, 31 dt. 19-2-1996 as illegal, arbitrary, violative of principles of natural justice and set-aside the same and consequently direct the Respondents to consider the Petitioner for the promotions to the Rank of Subedar, Major on par with his juniors, and pass.

**Counsel for the Petitioner:MR.S.KRISHNA**

**Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY**  
**(ASST SOLICITOR GEN)**

**The Court made the following Order:**

The relief sought for in this writ petition is to declare the action of the third respondent in issuing the letter dated 19-02-1996 as arbitrary, illegal and in violation of principles of natural justice, to set aside the same and to consequently direct the respondents to consider the case of the petitioner for promotion to the rank of Subedar Major. Promotion to the rank of Subedar Major is a relief consequential to the petitioner's request to have the order dated 19-09-1996 quashed being accepted by this Court.

In the proceedings dated 19-02-1996, several persons including the petitioner were informed that they were due to retire and that the papers were being transferred to the pension establishment to ensure payment of their pension. What is under challenge, in effect, is the action of the respondents in retiring the petitioner from service pursuant to the proceedings dated 19-02-1996.

Sri S.G.Poornachandra Rao, learned counsel for the petitioner, would contend that if the petitioner were to be promoted to the rank of Subedar Major, he would then be entitled to two additional years of service, which would require his services to be extended till February, 1998.

Sri M.Ganga Rao, learned standing counsel appearing for the Central Government would, on the other hand, rely on the averments in the counter affidavit to contend that even if the petitioner had been promoted as Subedar Major it would make no difference to his date of retirement and that, even on promotion, he would have had to retire on reaching the age of 55 years as contemplated in the proceedings

dated 19-02-1996. Learned standing counsel would contend that, since the petitioner has not questioned the action of the respondents in denying him promotion except by way of collateral challenge, the questions regarding the procedure in which selections, to the rank of Subedar Major, were held in the year 1995, whether or not the annual confidential reports of the officers for the said year were taken into consideration are all wholly irrelevant to the relief sought for in this writ petition.

I find considerable force in this submission of Sri M.Ganga Rao, learned standing counsel appearing for the Central Government. What is under challenge in this writ petition is the age of superannuation of the writ petitioner. Since it is not in dispute that even on promotion there would have been no change in his age of superannuation, and since the action of the respondents in not promoting him to the rank of Subedar Major is not directly under challenge in this writ petition, I see no reason to examine the contentions raised by the petitioner regarding the manner in which selections, to the rank of Subedar Major, were held in the year 1995.

The Writ Petition fails and is, accordingly, dismissed. However, in the circumstances, without costs.

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19-03-2008

usd

To

1 The Director General of E.M.E. (E.M.E. Pers) Master General of Ordinance

Branch, Army Head Quarters, Union of India, New Delhi - 110001.

2 The Brigadier, E.M.E. Centre, Bhopal, Bhopal.

3 The Chief Record Officer, E.M.E. Centre, Records, Secunderabad, Hyderabad.

4 The CD copies