



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Reserved on: 11.02.2025***

***Pronounced on: 22.04.2025***

+ W.P.(C) 4662/2017, CM APPL.42411/2019

**RAJENDRA YADAV**

.....Petitioner

Through: Dr. S. S. Hooda and Ms.  
Rashmi Rawat, Advs.

versus

**THE DIRECTOR GENERAL, BORDER SECURITY FORCE**

.....Respondents

Through: Mr. Shushil Kumar Pandey,  
SPC with Mr. Hement Kumar  
Mishra, Adv. along with Mr.  
Sarvesh Srivastav, GP.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

### **J U D G M E N T**

#### **SHALINDER KAUR, J**

1. The petitioner, who is presently serving as a Deputy Commandant in the Border Security Force ('BSF'), has approached this Court under Article 226 of the Constitution of India, seeking the following reliefs :-

*“(i) The Hon’ble High Court may be pleased to issue a writ of Mandamus directing respondent to give due seniority to the petitioner.*

*(ii) The Hon’ble High Court may be pleased to issue appropriate writ or order directing respondent to give same cadre and all other benefits to the petitioner as equivalent to his colleagues of same cadre and batch.*

*(iii) To quash the APAR for the period 1.04.2014 to*



*31.03.2015 issued by the respondents.*

*(iv) Any other order or direction deemed just and proper in the facts and circumstances of the case may also be passed, with cost of these proceedings.”*

**Brief Facts:**

2. At the outset, we may refer to the factual background of the case as emanating from the record, by noting that the petitioner joined the BSF as an Assistant Commandant on 10.05.1997 and was later promoted to the rank of Deputy Commandant on 16.02.2004. On 16.10.2013, he was posted to the Sector Headquarters (SHQ) BSF Barmer from the 136<sup>th</sup> Battalion BSF in the capacity of Deputy Commandant (Administration).

3. In October/November, 2014, one Amarpal Jaura of SFVT Barmer had forwarded a report to the Frontier HQ BSF Gujarat, Gandhi Nagar regarding certain shortcomings in the management of the ORs mess and against officials/Officers of SHQ BSF Barmer and 37<sup>th</sup> Bn BSF available/attached with the SHQ BSF Barmer. On the basis of the said report, a Staff Court of Inquiry (‘SCOI’) was ordered by the Frontier HQ *vide* Orders dated 17.11.2014 and 18.11.2014, wherein the petitioner was accused of certain Charges.

4. The SCOI, *vide* Opinion dated 01.01.2015, exonerated the petitioner of four Charges out of five. As far as the third Charge, relating to non-issue of liquor in Sector ORs Mess on liquor issue days is concerned, the SCOI found that the petitioner had a supervisory role, and while his supervisory lapses were not justified, it did not recommend the imposition of any penalty and instead, recommended that a lenient view be taken against the petitioner due to his over



commitments at the SHQ.

5. Subsequent thereto, the Inspector General (IG) Ftr HQ, BSF, Gandhinagar, *vide* Order dated 27.05.2015, partly concurred with the said opinion of the SCOI and recommended that a Director General's (DG's) Displeasure be issued to the petitioner for failing to supervise maintenance of the liquor issue register of ORs Mess, timely distribution of liquor in OR Mess, and for failing to supervise the certification of fresh purchase bills by the purchase board.

6. Based thereon, a Show Cause Notice dated 05.10.2015 for the proposed issuance of a DG's Displeasure was issued by the FHQ to the petitioner, and the petitioner was given thirty days to represent against the same. After considering the petitioner's response dated 19.12.2015 to the said Show Cause Notice, the DG BSF issued the Displeasure *vide* Order dated 14.01.2016.

7. Meanwhile, the petitioner was communicated the adverse remarks in his Impugned APAR for the period from 01.04.2014 to 31.03.2015, *vide* Letter dated 01.09.2015. In the said APAR, the Initiating/Reporting Officer rated the petitioner as a physically tough, well-disciplined, diligent, and professionally competent officer, and graded him as "Very Good". The Reviewing Authority, however, disagreed with the said remarks, noting that while the petitioner was knowledgeable and capable, there had been multiple complaints against his conduct, concluding with the adverse remark, "A person of doubtful integrity" .

8. Dissatisfied with the adverse remarks and the overall grading in the Impugned APAR, the petitioner submitted his first representation



on 16.09.2015 before the Special DG BSF (Western Command), Chandigarh. The same was rejected on 21.07.2016, being devoid of merit. Subsequent representations dated 07.10.2016 to the DG BSF and 18.02.2017 to the Home Secretary, Government of India, were also rejected *vide* Orders dated 28.11.2016 and 24.04.2017, respectively.

9. Following the above orders, the petitioner submitted a fourth representation-cum-grievance on 27.06.2018, whereafter, he was interviewed by the DG BSF on 04.07.2018, however, his representation was rejected on 24.07.2018.

10. It is the case of the petitioner that due to the adverse remarks recorded in his Impugned APAR, , he was found unfit for promotion in the Departmental Promotion Committee ('DPC') meetings held between 2016 and 2019.

11. Aggrieved by the rejection of his representations and the denial of promotion on account of the adverse remarks, the petitioner has filed the present petition.

**Submissions on behalf of the petitioner:**

12. In support of the petition, Dr. S. S. Hooda, the learned counsel for the petitioner submitted that a Vigilance Inquiry was initiated against the petitioner, however, the said inquiry was still pending before the competent authority when the adverse remark of "person of doubtful integrity" was recorded in the petitioner's APAR. He contended that such a remark was made prematurely, without awaiting the outcome of the inquiry. Furthermore, the respondents failed to consider that their own SCOI had exonerated the petitioner of Charge



1, 2, 4 and 5. He submitted that neither the complaints nor the purported Vigilance Inquiry contained any Charge that has been conclusively proved against the petitioner.

13. The learned counsel submitted that, as per the Ministry of Home Affairs' Office Memorandum dated 27.03.2015, the DG's Displeasure awarded to the petitioner does not constitute a penalty and, therefore, cannot be a ground for denying him promotion. He contended that the respondents have erred in relying upon the DG's Displeasure to deny the petitioner his rightful career progression.

14. He submitted that the respondents themselves failed to adhere to the procedural safeguards mandated under their own APAR Procedure and Instructions, 2012 inasmuch as provisions under paragraphs 2.23, 2.24, 2.26, 2.33 of the said Practice and Procedures have not been complied with. He submitted that paragraph 2.23, *inter-alia*, specifies that an entry relating to penalty should be recorded in the report for the year in which the punishment order is issued. He submitted that upon culmination of the SCOI, a DG's Displeasure was issued to the petitioner in January 2016, and as per the mandate of the APAR Practice and Procedures, the same could have been looked into with respect to the APAR for the period 2015-2016 and not for the assessment in the APAR for the period 2014-15 as has been done in the petitioner's case.

15. The learned counsel further submitted that the Reviewing Officer did not give any reasons for his disagreement with the grading of the Reporting Officer, thereby, contravening the provisions of Para 2.33 of the APAR Practice and Procedures.



16. With reference to paragraphs 2.24 and 2.26, he submitted that, the assessment of an individual should not be based on a single isolated incident, and it is mandated that the individual should be given a chance to improve. He submitted that in the present case, it is a matter of record, that the petitioner was not issued any warning, reprimand, or even an advice, and no shortcomings were ever pointed out to him, thus, merely making an adverse entry in the APAR is not sustainable and is in clear contravention of APAR Practice and Procedures.

17. To conclude, the learned counsel urged that the petitioner has an exemplary service record, having been a recipient of multiple awards, including the Police Medal for Gallantry. He submitted that the petitioner has been unfairly subjected to adverse remarks and denied due consideration for promotion despite his meritorious service. He further emphasized that the petitioner was subsequently awarded “Very Good” grading in the APAR for the year 2015-16, despite the DG’s Displeasure being in place. This, he submitted, is inconsistent with the prior adverse remarks and indicates that the petitioner was not, in fact, a person of ‘doubtful integrity’. He submits that therefore, the adverse remarks in the Impugned APAR are liable to be expunged, in view of the case of *Yamuna Shanker Mishra vs. State of UP*, 1997 (4) SCC 7, and the petitioner should be granted promotion with all consequential benefits.

**Submissions on behalf of the respondents:**

18. *Per contra*, Mr. Shushil Kumar Pandey, the learned Special



Panel Counsel (SPC) for the respondents, seeking dismissal of the petition, submitted that the petitioner's claim that he has been wrongly assessed by the respondents is devoid of any merit. He contended that the petitioner was not considered for promotion in the DPC meetings due to the adverse remarks recorded by the Reviewing Authority. These remarks were made in light of the pending Vigilance Inquiry and findings of the SCOI. It is contended that the said findings were duly communicated to the petitioner through a reasoned order, which ultimately led to the awarding of the DG's Displeasure.

19. The learned counsel further submitted that the petitioner's representations were rejected by the competent authorities on merits, after a careful examination of the same. He submitted that given the subsisting DG's Displeasure, the petitioner was ineligible for consideration for promotion, and the action taken by the respondents was in accordance with the established procedures and regulations.

20. The learned counsel drew our attention to para 2.29 of the BSF APAR Practice and Procedures and submitted that the same refers to the responsibility of the Reviewing Officer while recording the APAR, and in the case of the petitioner, the Reviewing Officer followed the laid down procedures.

**Analysis and Findings:**

21. Having considered the submissions of the learned counsels for the parties and perused the record, we may begin by noting that in *Yamuna Shankar Mishra* (supra), the Supreme Court underscored the need to write confidential reports objectively, fairly and dispassionately by the concerned authorities. It observed as under:-



*“4. ... .. Therefore, writing the confidential reports objectively and constructively and communication thereof at the earliest would pave way for amends by erring subordinate officer or to improve the efficiency in service. At the same time, the subordinate employee/officer should dedicate to do hard work and duty; assiduity in the discharge of the duty, honesty with integrity in performance thereof which alone would earn his usefulness in retention of his service. Both would contribute to improve excellence in service.*

*... ..*

*7. It would, thus, be clear that the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51A (j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual strives to improve excellence and thereby efficiency of administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon the facts or circumstances. Though sometimes, it may not be part of record, but the conduct, reputation and character acquire public knowledge or notoriety and may be within his knowledge. Before forming an opinion to be adverse, the reporting/officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or conduct/corrupt proclivity. If, despite given giving such an opportunity, the officer fails to perform the duty, correct his conduct or improve himself necessarily, the same may be recorded in the confidential reports and a copy*





*thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standards of excellence in services constantly rises to higher levels and it becomes successful tool to manage the services with officers of integrity, honesty, efficiency and devotion.*

22. It would, thus, emerge from the above decision that while assessing the performance of an individual, the Superior Officer must be careful to evaluate the information gathered about him, and due diligence must be exercised while writing an APAR.

23. In this background, it is necessary to note the reason for issuance of the DG's Displeasure, for which the opinion of the SCOI with respect to the five Charges framed against the petitioner is reproduced as under:-

<b>Charge I:</b> Reported misbehavior/using threatening language by the Petitioner with the vigilance staff of SFVT Banner on 04 <sup>th</sup> Nov, 2014 and subsequent dates.	<i>In the given situation, as per the audio CD produced, it will not be appropriate to conclude that Sh. Rajendra Yadav used threatening language with Vigilance Staff or SFVT Barmer on 04.11.2014 and subsequent dates.</i>
<b>Charge II:</b> Reported mismanagement in the Sector Barmer ORs mess especially with reference to quality of prepared food and purchase	<i>Records suggest that quality food were being prepared as per menu which were found to be good and tasty.</i>



<i>of fresh/dry ration vis-à-vis cost.</i>	
<b>Charge III:</b> <i>Non-issue of liquor in Sector ORs Mess on liquor issue days including on 03 Nov 2014 and other days.</i>	<i>Being a Mess Comdr OR's Mess, HC/Turner Marknday Mishra was directly responsible to update and maintain the records properly but failed to do so and hence found blameworthy for the omissions.</i>  <i>Sh. Rajendra Yadav was supposed to supervise the mess related activity properly but couldn't due to his over commitment and paucity of time as he was holding number of appointments in the Sector HQ. However, his over-commitment does not justify his supervisory omissions. However, taking into consideration of his over commitments, the Court recommends that lenient view should be taken and he should be advised suitably.</i>
<b>Charge IV:</b> <i>Unauthorized taking of liquor from Sector ORs Mess by the Petitioner.</i>	<i>Based on statements and record, the allegation leveled against officer does not substantiate and seems to be deceitful.</i>
<b>Charge V:</b> <i>Partial behaviour of staff officers of SHQ BSF Barmer.</i>	<i>All the officers, SOs and ORs of SHQ BSF Barmer are being treated in a dignified manner.</i>

24. It is evident from the opinion of the SCOI, that the petitioner was completely exonerated of Charge-I, Charge-II, Charge-IV and Charge-V. With respect to Charge-III, however, he was found blameworthy for the supervisory lapses regarding mess related



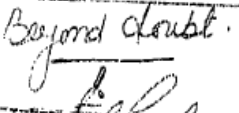
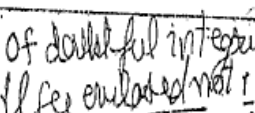
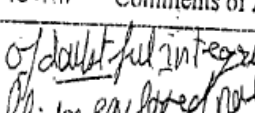
activities, though a lenient view was recommended, owing to his over commitments at the Sector HQ.

25. Based on these findings, the IG, BSF, Gujarat Frontier found the petitioner blameworthy of supervisory lapses on the part of the petitioner in the management of mess related activities such as not maintaining Liquor Issue register, non-distribution of liquor timely and non-certification of fresh purchase bills of ORs mess by the purchase board in SHQ, BSF, Barmer, ORs Mess, and on the basis of the same, recommended that a DG's Displeasure be issued to him, which was eventually issued to the petitioner on 14.01.2016.

26. It would also be apposite to note the relevant extracts of the Impugned APAR, which are reproduced hereinbelow:-

DRAFT - 2005)

... INSTRUCTIONS .

रिपोर्टिंग अधिकारी की टिप्पणी Comments of IO	पुनरीक्षण अधिकार की टिप्पणी Comments of RO	रिपोर्ट स्वीकार करने वाले अधिकारी की टिप्पणी Comments of A/ Auth
Beyond doubt.  SANTOSH MEHRA हस्ताक्षर Signature	of doubtful integrity Pl see enclosed note  हस्ताक्षर Signature	of doubtful integrity Pl see enclosed note  हस्ताक्षर Signature

INSPECTOR GENERAL  
BSF

SANTOSH MEHRA, IPS

SANTOSH MEHRA, IPS



नाम Name RAJENDRA YADAV  
पद Rank DY COMDT

10. रिपोर्टिंग अधिकारी के द्वारा पेन पिक्चर- अधिकारी के संपूर्ण गुणों पर टिप्पणी करें, जिसमें उसकी खूबियाँ और कमियाँ शामिल हैं। (तकरीबन 100 शब्दों में):-

PEN PICTURE of the officer reported upon by Reporting Officer. (Please comment (in about 100 words on the overall qualities of the officer including areas of strengths and lesser strengths).

Physically tough, well disciplined, diligent and professionally good officer. He is mature and complete assigned duties in time. I graded him a "Very good" officer.

11. कुल मिलाकर ग्रेड (1-10 अंक के आधार पर) =  
Overall grade (on a score of 1-10) (A + B + C) =

7.94

भाग IV - पुनरीक्षण  
Part IV - Review

PRATUL GAUTAM  
उप निरीक्षक  
BY INSPECTOR GENERAL  
रिपोर्टिंग अधिकारी द्वारा भरा जाए  
Date: 2025

1 रिपोर्ट लिखने वाले अधिकारी के पेन-पिक्चर पर टिप्पणी (पुनरीक्षण अधिकारी द्वारा भरा जाए) ?  
Remarks on the pen picture reflected by the reporting officer (To be filled by Reviewing authority)

Thorough knowledgeable and capable, there have been several complaints about his conduct & accomplishments. A person of doubtful integrity.

2. पुनरीक्षण अधिकारी की टिप्पणी, यदि रिपोर्टिंग अधिकारी के मूल्यांकन से पुनरीक्षण अधिकारी असहमत है तो पुनरीक्षण अधिकारी स्पष्ट रूप से कारण बताएं ?

Remarks by the Reviewing officer to indicate specifically the differences, if any with the assessment made by the reporting officer and the reasons therefore.

I do not agree with the remarks of Reporting Officer. This officer has been subject of vigilance enquiry in which charges are proved. He is valued as intelligent & energetic. Good.

3. 1-10 के स्केल पर कुल मिलाकर ग्रेड  
Overall grade on a scale of 1-10 (A1 + B1 + C1) =

5.85



27. It is also important to note that in the Impugned APAR, the integrity of the petitioner has been recorded to be of 'beyond doubt' by the Reporting Officer, whereas the Reviewing Officer had found him to be of 'doubtful integrity' on the basis of several complaints about the conduct and accomplishments of the petitioner. The Reviewing Officer further reported that the petitioner was subjected to a Vigilance Inquiry in which Charges were proved and thus, graded him as only 'Good' instead of 'Very Good' in the pen picture. Moreover, the overall grade in the box grading was brought down from '7.94' to '5.84'.

28. Needless to say, the Reviewing Officer has attempted to cast a doubt on the petitioner's integrity on the basis of several complaints against him, however, not even a single complaint has been annexed with the note recorded by the Reviewing Officer in the Impugned APAR nor is the same brought to our notice by the learned counsel for the respondent. Another reason for downgrading his APAR had been a Vigilance Inquiry against him, in which the charges were not found to be proved. Insofar as the SCOI's opinion is concerned, the petitioner was exonerated of four Charges out of five, and in one Charge, certain acts of omission/supervisory lapses on part of the petitioner, though were not found to be justified, only a DG Displeasure was issued.

29. To appreciate the plea of the petitioner that while evaluating the performance of the petitioner for the period 2014-2015, the DG's Displeasure could not have been considered by the Reviewing Authority, we may refer to paragraph 2.23 of the BSF APAR Practice and Procedure, which is reproduced as under:-



*“2.23 Performance Assessment Report should, as a rule, give general appreciation of the character, conduct and qualities of an officer reported upon and a reference to any specific incident should be made if at all only by way of illustration to support adverse comments of a general nature, as for example inefficiency, delay, lack of initiative, judgement, etc. Specific incidents on the basis of which penalties have been awarded in the course of departmental proceedings must, however, be indicated. **An entry relating to a penalty should be recorded in the report for the year in which punishment order is issued.** In this entry, an indication may, however, be given about the period to which the incidents leading to the disciplinary case, relate.”*

*(emphasis supplied)*

30. What flows from the aforesaid paragraph is that the authorities are required to assess the performance of an Officer only during the assessment period under the report and an entry relating to a penalty should be recorded in the report for the period/year in which such punishment order is issued.

31. In the present case, the Impugned APAR is for the period from 01.04.2014 to 31.03.2015. The DG's Displeasure was recorded against the petitioner in January, 2016, thus, the same could have been considered in the APAR for the period of 2015-16 and not in the Impugned APAR as the said displeasure was beyond the period under assessment in the Impugned APAR.

32. The learned counsel for the petitioner, while relying upon the Office Memorandum dated 27.03.2015, which is in reference to the Ministry of Home Affairs letter no. I.45026/25/87-Pers.II dated June, 1989, dealing with the effect of award of DG's Displeasure to officers



of the Central Armed Police Forces, submitted that a DG's Displeasure is not a penalty, therefore, it cannot be considered for denial of promotion. The relevant extract of the aforesaid OM is reproduced below:-

*“(i) Displeasure is not a penalty enlisted in Rule 11 of CCS (CCA) Rules, 1965 and therefore it cannot be considered for denial of promotion.”*

33. The above Office Memorandum clearly establishes that a DG's Displeasure is not a penalty under Rule 11 of CCS (CCA) Rules, 1965 and therefore cannot be considered for denial of promotion.

34. The facts and circumstances mentioned hereinabove lead us to accept the petitioner's plea that the box grading as well as the note about his 'doubtful integrity', as recorded by the Reviewing Officer, was misconceived, especially when there is no material to arrive at such a conclusion. Though, the Reviewing Officer has mentioned that there were several complaints against the petitioner, the content of not even a single complaint has been put in his note or produced before us. In fact, we are unable to comprehend the basis on which the petitioner was assessed as being of 'doubtful integrity' by the Reviewing Officer, which, in the absence of any reasoning, is a blemish on the respectful integrity of the concerned officer.

35. We further take note of the fact that in the subsequent year for 2015-16, the petitioner has been assessed as 'Very Good', despite the DG's Displeasure subsisting. The relevant extract of the said APAR is reproduced herein below:-



9 सत्यनिष्ठा इस कालम को गृह मंत्रालय के दिनांक 21 जून 65 के कार्यालय ज्ञापन संख्या 51/4/64-स्थापना(ए) के अनुदेशों के अनुसार भरा जाए (कृपया वार्षिक गोपनीय रिपोर्ट प्रक्रिया व अनुदेश पुस्तिका-2003 के भाग V के "सत्यनिष्ठा" को देखें):-

**Integrity.** This column should be filled as per instructions issued under MHA OM No. 51/4/64 Estt(a) dated 21 June 65 (Please see Part V 'Integrity' of ACR Procedure & Instructions Booklet - 2003)

रिपोर्टिंग अधिकारी की टिप्पणी Comments of IO	पुनरीक्षण अधिकार की टिप्पणी Comments of RO	रिपोर्ट स्वीकार करने वाले अधिकारी की टिप्पणी Comments of A/ Auth
Beyond doubt  28/6 हस्ताक्षर Signature	Beyond doubt  28/6/16 प्रतुल गौतम PRATUL GAUTAM उप निरीक्षक Deputy Inspector INSPECTION GENERAL	Beyond doubt  28/6/16 संतोष मोहन, आई.एस. Santosh Mohan, IPS

10. क्या अधिकारी को मूल्यांकन अवधि के दौरान कोई डिसप्लेजर जारी किया गया है, यदि हाँ तो क्या इसकी संज्ञान एम.एच.ए. के ओएम नं 1.45026/01/2015-पर्स.11 दिनांक 27 मार्च 2015 के अनुसार रिपोर्टिंग अधिकारी द्वारा मूल्यांकन करते समय ध्यान में रखा गया है:-

If any displeasure is issued to the officer during the assessment period. Has it been taken for consideration in the APAR as per MHA's OM No. 1.45026/01/2015-Pers.II dated 27 March 2015.

NO's Displeasure wide HQ, DGT BSF (Pers Dte: Confd section)  
L/NO. C-14011/58/2015/CC/Pers/BSF/516-20 dated 14/01/2016.

11. रिपोर्टिंग अधिकारी के द्वारा पेन पिक्चर- अधिकारी के संपूर्ण गुणों पर टिप्पणी करें, जिसमें उसकी खूबियाँ और कमियाँ शामिल हैं। (तकरीबन 100 शब्दों में):-

**PEN PICTURE** of the officer reported upon by Reporting Officer. (Please comment (in about 100 words on the overall qualities of the officer including areas of strengths and lesser strengths).

A medium height, smart and energetic officer. His professional knowledge is very good. He takes adequate interest in his work. He maintains cordial relations with fellow employees. He is ready to help his juniors at all times.

12. कुल मिलाकर ग्रेड (1-10 अंक के आधार पर) =  
Overall grade (on a score of 1-10) (A + B + C) =

6.02

36. Considering the entire gamut of facts and circumstances, it is





worthwhile to mention that the Reviewing Officer has not complied with the responsibility to record the APAR objectively, as assigned to him *vide* paragraph 2.29 of the BSF APAR Practice and Procedures. The said paragraph is reproduced herein below:-

*“2.29 Assessment of the performance of a Government servant at more than one level has been prescribed as a general rule with a view to ensure maximum objectivity. While it might be difficult for an officer to have a detailed knowledge of the qualities of a government servant two levels below him, his overall assessment of the character, performance and ability of the government servant reported upon is vitally necessary as a built in corrective. The judgment of the immediate superior can sometimes be too narrow and subjective to do justice to the government servant reported upon. The reviewing officer should, therefore, consider it his duty to personally know and form his judgment of the work and conduct of the officer reported upon. He should exercise positive and independent judgement on the remarks of the reporting officer under the various detailed headings in the form of report as well as on the general assessment, and express clearly his agreement or disagreement with these remarks. This is particularly necessary in regard to adverse remarks (if any), where the opinion of the higher officer shall be construed as the correct assessment. The reviewing officer is also free to make his own remarks on points not mentioned by the reporting officer. Such additional remarks would, in fact, be necessary where the report of the IO is too brief, vague or cryptic.”*

37. In view of the above, we have no hesitation in holding that there was a lack of objectivity on the part of the Reviewing Officer while recording the Impugned APAR of the petitioner. The same, therefore, cannot be sustained and is accordingly, quashed. The consequential order dated 24.07.2018, rejecting the petitioner's representation



against the Impugned APAR is also quashed.

38. Having said so, no fruitful purpose would be served, at this stage, to remand the APAR back to the concerned authorities to record the same afresh, given the significant time that has elapsed since the assessment period.

39. In light of these peculiar facts, we direct the respondents to constitute a review DPC to reconsider the case of the petitioner for promotion retrospectively, and if found fit promotion be granted to him from the due date. In such case, the petitioner will be entitled to all consequential benefits arising therefrom. Let the exercise in terms of this order be concluded within 12 weeks.

40. The writ petition, along with the pending application, is allowed in the aforesaid terms.

**SHALINDER KAUR, J.**

**NAVIN CHAWLA, J.**

**APRIL 22, 2025/ss/kp**

*[Click here to check corrigendum, if any](#)*