

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI**

**25.**

**O. A. No. 23 of 2010**

**Lt. Col. Ravinder Singh**

**.....Petitioner**

**Versus**

**Union of India & Ors.**

**.....Respondents**

**For petitioner:** Sh. S. S. Pandey, Advocate.

**For respondents:** Sh. Ankur Chhibber, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.**

**HON'BLE LT. GEN. S.S.DHILLON, MEMBER.**

**ORDER**

**25.4.2011**

The petitioner, by this petition has prayed that order dated 31.8.2007 passed by respondent no. 1 in his statutory complaint be quashed and the respondents may be directed to remove the CR for the period between 8.5.1997 to 13.11.1997 in its entirety due to technical invalidity.

2. The petitioner was commissioned in Infantry in the rank of Second Lieutenant on 11.6.1988. He was promoted to the rank of Captain and he was promoted to the acting rank of Major while being posted as Company Commander with 17 Rashtriya Rifles Battalion in the year 1994. During 1995, the applicant was serving with 17 Rashtriya Rifles Battalion but unfortunately he got involved into a case which was falsely instituted against him by local persons and a case under Section 302/342 IPC was registered against him. As the offence was allegedly committed while the

petitioner was serving on active service, the Judicial Magistrate, Banihal transferred the matter to Military Authorities vide order dated 21.12.1995. The petitioner got transferred to 21(I) R & O Flt on 8.5.1997. Thereafter, as per his seniority, the petitioner proceeded to attend JC course at College of Combat, Mhow (MP) in January, 1998. The parent unit of the petitioner i. e. 21(I) R & O Flt intimated to College of Combat vide letter dated 3.2.1998 that the petitioner who was attending JC course be attached to 870 FPO under the authority of Army Headquarter letter dated 22.1.1998 till the finalization of the disciplinary case and further the petitioner was attached with 20 Rashtriya Rifles Battalion. At this time, RO Col. R. K. Chugh relieved from the present appointment and posted out to Army Headquarters. The CR covering 8.5.1997 to 13.11.1997 was initiated on the petitioner by his IO Lt. Col. P. A. Naidu, which was forwarded to Army Headquarters for review by Col. R. K. Chugh. It is alleged that consequent upon the attachment order for disciplinary action against the petitioner, a copy of the tentative charge-sheet was prepared and orders for recording of summary of evidence in respect of the petitioner were issued by 20 Rashtriya Rifles Battalion vide convening order dated 28.3.1998. The petitioner received the extracts of the impugned CR containing adverse remarks by his RO, Col. R. K. Chugh through 4 corps Army Aviation Base vide Army Headquarter letter dated 5.5.1998 as the petitioner had never received any warning/counselling for improvements from his Reviewing Officer even once during the period of reporting which was mandatory. It is submitted that in retrospect the petitioner is apprehending that due to the fact that the petitioner is facing disciplinary proceedings, his reviewing officer got influenced with such fact. Then thereafter the petitioner filed a non-statutory complaint on 23.8.1998 against his early CR for the period from 8.5.1997 till 13.11.1997 on the ground of subjectivity and inconsistency

but the said complaint was rejected by General Officer Commanding 4 Corps. He also submits that formal charges against him were dismissed by Officiating Commanding Officer 20 Rashtriya Rifles Battalion. He further submits that he was considered for promotion to the rank of Col. by No. 3 Selection Board during April, 2006 he was not empanelled and he filed a statutory complaint against this non-empanelment, which was also rejected. Hence, the petitioner has filed this petition challenging his CR for the period from 8.5.1997 till 13.11.1997 on the ground that there was a discipline and vigilance (DV) ban imposed against him, therefore, this CR should not have been initiated. In this connection, learned counsel has invited our attention to paras 27, 28 and 29 of the Special Army Order No. 3/S/89 of February, 1989 which read as under:

**"27. When a report cannot be initiated because of disciplinary case, a non-initiation form giving detailed reasons will be forwarded to the MS Branch, through the prescribed reporting channels.**

**28. An officer will be considered to be the subject of a disciplinary case with effect from the earlier of the following two dates:-**

**(a) The date on which a Court of Inquiry is ordered involving his character or military reputation, or**

**(b) The date on which formal cognizance of an offence is taken against him.**

**29. CRs for the previous year(s), will be initiated, if not done already, even after the institution of disciplinary proceedings, provided the due date of initiation is before the date on which the officer becomes the subject of a disciplinary case. For instance, a CR on an officer of the rank of Capt. was due on 01 Jan, but could not be initiated due to some**



**reasons till 15 Jan. The officer becomes the subject of a disciplinary case on 10 Jan. The CR due on 01 Jan will still be initiated."**

3. Learned counsel for the petitioner submits that since in the case of the petitioner, a discipline and vigilance (DV) ban was imposed upon him and he was attached vide order dated 22.1.1998, his CR for the period from 8.5.1997 till 13.5.1997 should not have been written as per para 28 above which says that in case a person is facing a court of inquiry involving his character or military reputation or the date on which formal cognizance of the offence is taken against him then in that case, his CR could not have been written for this period.

4. We have gone through the CR also and we have heard learned counsel for the parties.

5. The issue before us is that the CR for the period from 8.5.1997 till 13.11.1997 could be written or not. The petitioner has joined the Aviation Headquarter of the Indian Army on 8.5.1997 and the IO and RO have only written about his abilities and performance as Aviator and there is no repercussion of the incident as alleged to have taken place in 1995 in which he is alleged to have committed a murder of any person. It may be relevant to mention here that in fact the FIR was lodged against him and the challan was filed in the Court of the Magistrate. Before the Magistrate could proceed with the matter, an application was moved by the Army Authorities for transfer of the matter for holding a regular inquiry against the delinquent. Meanwhile, the Court of Inquiry was also held on 10.3.1996 and in that Court of Inquiry, no merit was found in the case and charges were dismissed. In this Court of

Inquiry, the petitioner was not called to face it under Army Rule 180. It was so called a fact finding inquiry. Therefore, neither any Court of Inquiry was held against the petitioner nor he was charged during the currency of the CR in question. The petition is totally misconceived and he has failed to make out a case on the basis of Special Army Order No. 3/S/89 of February, 1989. In fact, the relevant CR has no reflection of that incident, whatsoever and it is not written by 17 Rashtriya Rifles Battalion. The CR which is in dispute pertains to his performance in aviation i.e. for the period w. e. f. 8.5.1997 till 13.11.1997. Therefore, the attempt of the petitioner to drag the controversy of 17 Rashtriya Rifles Battalion and to seek quashing of the CR is totally misconceived. Therefore, the CR for the period 8.5.1997 till 13.11.1997 is not with regard to his performance in 17 Rashtriya Rifles Battalion but is with regard to his performance in Aviation of the Army. As such, reference of his inquiry and Special Army Order No. 3/S/89 of February, 1989 is misconceived. Learned counsel submitted that this CR has been communicated by the MS Branch that shows it is adverse. We are not required to comment on that but the fact remains that it has no co-relation with the aforesaid incident as alleged by the petitioner. Therefore, this CR cannot be quashed on the basis of Special Army Order No. 3/S/89 of February, 1989 as it does not affect either of the situation contemplated under Army Rules and Special Army Order No. 3/S/89 of February, 1989. The petition is accordingly dismissed. No order as to costs.

**A.K. MATHUR**  
**(Chairperson)**

**S.S. DHILLON**  
**(Member)**

**New Delhi**  
**April 25, 2011**