

**COURT NO. 1, ARMED FORCES TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 934 of 2018**  
**with**  
**M.A. No. 810 of 2018**

**In the matter of :**

**Lt Col Sachin Randale, SC, SM** ... **Applicant**

**Versus**

**Union of India & Ors.** ... **Respondents**

**For Applicant** : Shri S.S. Pandey, Advocate

**For Respondents** : Shri Harish V. Shankar, Advocate

**CORAM :**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)**

**ORDER**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 read as under :

***“(a) To call for the records based on which the Respondents have not empanelled the Applicant for promotion to the rank of Col by No. 3 Selection Boards in all his three***

*considerations including the (Final Review) held in April, 2016 and have rejected his complaints including the impugned order dated 16.05.2017 rejecting his Statutory Complaint.*

*(b) Direct the Respondents to consider the Applicant for promotion after removing the assessments of the CR covering the period from Jul 2006 to 12/2006 and thereafter consider the Applicant for promotion as fresh case with further direction that in case he is not promoted as fresh case in that case he may be given his subsequent considerations with the additional inputs of 2014 and 2015 as applicable and grant him promotion if found fit with all consequential benefits.*

*(c) Issue such other orders/directions as deemed fit as required in the facts and circumstances of the present case.”*

2. The facts of the present case, in brief, are that the applicant was commissioned on 12.12.1998 in the Regiment of Artillery. The applicant during his various postings had

been a part of all games and sports at Brigade and Division level; posted to a Counter Insurgency/Counter Terrorism environment from June, 2001 to February, 2004 and earned A+ in all operational reports. In June, 2002, he was injured due to a grenade blast by terrorist during a Cordon & Search Operation and the applicant was declared as Battle Casualty; the applicant was awarded Sena Medal (Gallantry) in August, 2002 and Shaurya Chakra in November, 2003. The applicant was thereafter posted to various places and earned A+ or near outstanding by his IOs. The applicant after completion of 13 years of service was promoted to the rank of Lt Col on 12.12.2011.

3. It is the case of the applicant that he was considered for promotion by No.3 Selection Board in June, 2013 as a fresh case, but he was not empanelled despite having a distinct advantage of the points. Aggrieved by such non-empanelment, the applicant filed a Non Statutory Complaint dated 19.07.2013 and accordingly as a partial redressal of his grievance, he was granted expunction of the RO's remarks in two paragraphs in CR 07/06 - 12/06 on the ground of inconsistency. Consequently, the applicant was

considered by the No. 3 SB as a Fresh Review Case in December, 2013 but the applicant was not empanalled for promotion. The applicant, therefore, preferred a Statutory Complaint dated 10.02.2014, *inter alia*, challenging the ACRs of 2006-2007 and ICR June, 2011.

4. During the pendency of the said Statutory Complaint, the applicant was considered by No. 3 SB held in May/June, 2014 as First Review Case, however, the applicant was again not empaneled for promotion. In the meantime, the Statutory Complaint dated 10.02.2014 was disposed of by the respondents vide order dated 24.11.2014 and no relief was granted to the applicant. In April, 2016, the applicant was again considered by No. 3 SB as a Final Review Case but again the applicant was not empaneled for promotion. Against this, the applicant preferred a Statutory Complaint dated 05.12.2016 challenging the CR 07/06 - 12/06 and prayed that additional input of 2014 and 2015 be considered for Final Review and he be given weightage for operational reports and considered as a Fresh case for No. 3 SB. The Statutory Complaint of the applicant was rejected by the

competent authority vide order dated 16.05.2017. Hence, this OA.

5. In his arguments, the learned counsel for the applicant submitted that the applicant has exemplary service records which includes award of Shaurya Chakara and Sena Medal for Gallantry, however, the respondents have not acted fairly in examining his CRs by retaining prejudicial assessments in his service records which may have affected his case. The learned counsel explained about various postings, appointments and awards etc. earned during his service and contended that the applicant has been a victim of subjective assessment by his RO in his CR of 2006-07; that the respondents failed to appreciate the merit in his two Statutory Complaints and rejected the same which is arbitrary and prejudicial for his promotion. The learned counsel further submitted that as there was a rift between the IO and the RO which affected the applicant's grading which was not commensurate towards the performance and thus instead of granting partial relief of expunction of two columns grading, the entire CR could have been removed. It is further stated that as per MS Branch's revised policy

issued on 31.12.2008 made effective from 01.01.2009, vide which Quantification System was introduced whereby 95% marks were allotted for quantified parameter including Confidential Reports, various Courses and Honours and Awards and 5% marks were kept apart for 'Value Judgment' by the SB Members for aspects that cannot be quantified and this policy was modified to some extent by policy letter dated 04.01.2011 whereby 95% marks were divided into two parts viz. 90% for CR and 5% for courses and honours and awards.

6. On behalf of the applicant, reliance was placed on the judgment of the Hon'ble Supreme Court in T. Sham Bhat Vs. Union of India & Ors., wherein it has been laid down that if the policy decision is arbitrary and discriminatory, Courts can certainly interfere and quash the same. Thus it is contended by the learned counsel that the action taken by the respondents against the applicant were highly discriminatory, arbitrary, unfair and illegal and violating the principles of equality. Therefore, it is prayed that the contentions raised by the applicant in his Statutory Complaints may be read as part and parcel of this OA and thus the same may be allowed.

7. Through the counter affidavit filed on behalf of the respondents, the learned counsel for the respondents submitted that the Army has a pyramidal rank structure and explained about the concept of non-select and select ranks; limited number of vacancies available for higher ranks which may result in supersession of officer based on the overall profile of the officer concerned and comparative merit of the batch with which the officer is considered. The learned counsel further briefly described the significant parts of the conduct of Selection Boards based on quantification system, such as operational reports, awards of marks for Gallantry Awards. Referring to the Para 4(d) and 12 of the relevant policy dated 04.01.2011, the learned counsel stated that the applicant, prior to his reckonable service in Rashtriya rifles battalion for Operation Rakshak, which is not identified and recognized as a specified operation for the purpose of value judgment and that as per the said policy, the applicant was entitled for quantification marks assigned to the two Gallantry Awards and the applicant was granted the applicable marks. It is was stated that the applicant, who is a Battle Casualty War Wounded Officer and earned two

gallantry awards of Sena Medal in 2002 and Shaurya Chakra in 2003 and thus, out of the 95 quantified marks, CRs have been assigned 93.68%, weightage (52.63% for criteria and 41.05% for non-criteria), Courses 4.21% and 2.11% for Gallantry awards; the gallantry awards solely does not compensate the overall profile which is also based on the CRs and courses done as well. The learned counsel further submitted that in the reckonable profile considered by No. 3 SB in June, 2013, the applicant had earned nine CRs and that all the nine CRs, except for the CR earned in the staff appointment, the applicant was consistently assessed by the IOs as 'Above Average'; the Non-statutory complaint dated 19.07.2013 against the non-empanelment by No. 3 SB in June, 2013, was filed by the applicant impugning the CRs for the period 07/06 - 12/06, 07/07 - 12/07 and 01/11 - 07/11 earned in criteria appointment, was fully examined qua his overall profile, all the CRs were found well corroborated, performance based and technically valid except for the two assessments by the RO in the CR for the period 07/06- 12/06 which were found to be inconsistent with the overall profile. Hence, the grievance of the applicant was

partially redressed by expunging of the two inconsistent assessments.

8. Referring to the two Statutory Complaints filed by the applicant dated 10.02.2014 and 05.12.2016 against non-empanelment by No. 3 SB and finding no inconsistency, technical invalidity, lack of objectivity warranting interference in the impugned CRs, the said statutory complaints were rejected. It was also submitted on behalf of the respondents that applicants 1998 Batch Artillery was considered with cutoff CRs indicated in the table, which is reproduced hereunder, and the CR which was due in May 2015 was beyond the promulgated cutoff of the 2000 batch and thus was not taken into consideration :

<b>Consideration by No. 3 Selection Board</b>	<b>Cutoff CR</b>
1998 Fresh Batch, June 2013	May 2012
1999 Fresh Batch (First Review 1998 Batch, May 2014	May 2013
2000 Fresh batch (Final Review 1998 Batch) Apr 2016	May 2014

It is submitted that the applicant has been considered based on the uniformly applicable policies without any

J

discrimination. In support of his contentions, the learned counsel referred to orders of the Tribunal (PB) in the case of **Brig Dinesh Kumar Ahluwalia Vs. Union of India and others [2018 SCC OnLine AFT 8809]** decided on 08.10.2018. He further relied upon the case of **Col Rajbir Singh Vs. Union of India & Ors. [O.A. No. 588/2020]** decided on 11.08.2023, where the applicant challenged his non-empanelment and the Tribunal dismissed the OA and held that the Selection Board was held as per the policy and the applicant in that case was not empanelled on his overall comparative merit and no malafide was found in the process. The learned counsel also pointed out that there is also three years' delay in filing the present OA which is termed by the applicant as 'slight delay' and not properly explained by the applicant. With the aforesaid arguments put forth, the learned counsel prayed that the OA deserves to be dismissed.

### **ANALYSIS**

14. We have heard both the parties at length and perused all the documents including CR Dossiers of the applicant, Non-statutory and Statutory Complaint files, the records of

the various Selection Boards in which the applicant was considered for the promotion to the rank of Col and various policies/documents/Army orders produced by both the parties.

15. First of all the Selection Board proceedings were perused by us. The officer was considered as a Fresh case in June, 2013 along with his batchmates (1998 batch) and subsequently on getting a partial relief based on his Non-statutory Complaint, the officer was granted Special Review (Fresh) conducted in Dec 2013 and subsequently by First Review conducted in June 2014 and the Final Review conducted in April, 2016. The results of the various Section Boards are tabulated below :

Ser No.	No. 3 SB	Considerations	Batch Year	Result
(a)	June 2013	Fresh	Arty 1998 Batch	Applicant - 84.565 (84.561) Last/Weakest Offer selected - 89.781
(b)	Dec 2013	Spl Review (Fresh)	Arty, D/W cases (Compared with Weakest 'B' of 1998 Batch)	Applicant - 87.985
(c)	June 2014	First Review	Arty, 1999 Batch	Applicant - 88.754 Last Offer selected - 89.599
(d)	Apr 2016	Final Review	Arty, 2000 Batch	Applicant - 88.907 Last Offer selected - 90.310

16. With the considerations as listed above, we are of the view that the applicant has been granted all his considerations due to him in the normal course and on getting partial relief based on his Non-statutory Complaint. The applicant has been correctly compared with the batches as brought out above given table at Para 15 and has been rejected by all the Selection Boards due to him being lower in merit than the **last/weakest officer selected** in the respective batches.

17. The impugned CR of the period from July, 2006 to December, 2006 was also perused by us. The officer was granted partial relief in the said CR based on his Non-statutory Complaint filed on 19 July 2013. From perusing the concerned file, there is no merit in further interference in the said CR as the said CR is well collaborated with his overall profile and the officer has rightly been granted partial relief by expunction of the following assessments of the RO in the impugned CR of period 07/06 – 12/06 as it does not match with his profile :-

(a)	Para 10(b)	'Knowledge of other Arms and Services'
(b)	Para 10 (f)	'Equipment management and ability to utilize resources economically'.

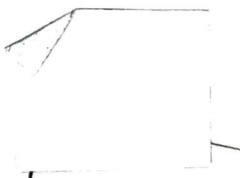
The Statutory Complaint of the applicant has not brought out any fresh issue except the ones brought out in Non-statutory Complaint and the Statutory Complaint was correctly disposed of by the respondents by granting no further relief.

18. The issue regarding award of marks for Honours & Awards (H&A) whilst drawing the merit list of the officer was also examined by us. The officer has been awarded 1.3 points for H&A in all the four Selection Boards and the contention raised by the applicant that the H&A marks were not counted towards his merit list is not true.

19. As far as the issue regarding consideration of the applicant's CRs of 2014 and 2015 is concerned, the CRs considered for the various Selection Boards with the cut-off dates of the CRs is as follows :

<b>No. 3 SB</b>	<b>Fresh Jun 13</b>	<b>Spl Review (Fresh) Dec 13</b>	<b>First Review May 14</b>	<b>Final Review April 16</b>
<b>Cut-off CR</b>	<b>May 12</b>	<b>May 12</b>	<b>May 13</b>	<b>May 14</b>

From the above, it is clear that the cut off dates of the CRs which needs to be considered by the Selection Boards as per



prevailing policy, the respondents have correctly considered all the relevant CRs in all the four Selection Boards and requires no further interference from the Tribunal.

**CONCLUSION**

20. In view of the above, the OA 934 of 2018 is dismissed being devoid of merit.

21. There is no order as to costs.

Pronounced in the open Court on this 22 day of July, 2024.

  
[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

  
[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)

/ng/

8

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH,  
WEST BLOCK-VIII, R. K. PURAM, NEW DELHI**

O.A. No. 934 of 2018

**IN THE MATTER OF:**

IC 58244Y LT COL SACHIN RANDALE, SC, SM .....APPLICANT

VERSUS

UNION OF INDIA & OTHERS .....RESPONDENTS

**MEMO OF PARTIES**

IC-58244Y LT COL SACHIN RANDALE, SC, SM

S/O SHRI SHIVRAJ RANDALE

PRESENTLY POSTED AT COLLEGE OF DEFENCE

MANAGEMENT, SECUNDERABAD – 500021

PRESENTLY AT NEW DELHI .....APPLICANT

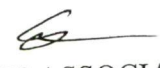
VERSUS

1. UNION OF INDIA THROUGH  
THE SECRETARY, MINISTRY OF DEFENCE  
SOUTH BLOCK, DHQ PO,  
NEW DELHI-110 011

2. THE CHIEF OF THE ARMY STAFF,  
INTEGRATED HQ OF MINISTRY OF DEFENCE (ARMY)  
DHQ PO, NEW DELHI-110 011

3. THE MILITARY SECRETARY  
INTEGRATED HQ OF MINISTRY OF DEFENCE (ARMY)  
DHQ PO, NEW DELHI-110 011

Filed by:



S S PANDEY & ASSOCIATES

V-5, Green Park Extn,

New Delhi-110016

Mob: 09968319917

Counsel for the Applicant

Place: New Delhi

Dated: 23 .05.2018