

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

46.(Supplementary)

OA 1020/2021

Rear Admiral R Sreenivas ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

For Applicant : Mr. Ankur Chhibber, Advocate  
For Respondents : Mr. Harish V. Shankar, Advocate

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON  
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER  
27.09.2024

Vide our orders of even date, we have dismissed the application. Faced with the situation, learned counsel for the applicant makes an oral prayer for grant of leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007 to the Hon'ble Supreme Court. We find no question of law much less any question of law of general public importance involved in the matter to grant leave to appeal. Hence, the prayer for grant of leave to appeal is declined.

[JUSTICE RAJENDRA MENON]  
CHAIRPERSON

[LT GEN P. M. HARIZ]  
MEMBER (A)

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**CORAM**

**HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON**  
**HON'BLE LT GEN P.M. HARIZ, MEMBER (A)**

**ORDER**

This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007, by the applicant who is a Rear Admiral (R Adm) in the Indian Navy (IN) and is aggrieved by his non-empanelment to the rank of Vice Admiral (V Adm). He has made the following prayers:

(a) Quash the (un-communicated) promotion board proceedings of the applicant to the rank of Vice Admiral that took place in October 2020 whose results were declared vide IHQ MOD IG 323 signal dated 05.11.2020 whereby the applicant could not make the grade to the rank of Vice Admiral and against the illegal PARBing or moderation of his CRs for the period 2018, 2018-2019 and 2019-2020 while the applicant was

being posted as Technical Manager (Maritime & Systems), now re-designated as ADG Acquisition Technical (Maritime & Systems), in the Acquisition Wing of the Ministry of Defence;

(b) Direct the respondents to retain the original grading as endorsed by the authorities having direct functional relationship with the applicant as set out vide order dated 14.06.2012 and to consider him afresh for the post of Vice Admiral by holding a special promotion board and if found fit, grant him all consequential benefits by promoting him to the rank of Vice Admiral from the date his batchmates have been promoted.

(c) In the interim stay the operation of HQ MoD IG Signal 162 dated 05.05.2021 regarding promotion of R Adm SK Nair , or in the alternative, direct Respondents to keep a post of V Adm vacant during pendency of present OA.

### **Brief facts of the Case**

2. The applicant was commissioned into IN on 16.12.1987 in the Engineering Branch. Based on his professional competence, he was promoted from time to time and was promoted to the rank of R Adm in Feb 2018. On being promoted to the rank of R Adm, he was posted to MoD/Acquisition Wing (Acqn Wg) as the Technical Manager (Maritime & System) - TM(M&S). He was considered for

promotion to the rank of V Adm by the 'Promotion Board 1/2020 (PB No -1/2020) in Oct 2020 and was not empanelled.

3. In Dec 2020, the applicant submitted an application dated 01.12.2019 (Annexure A-3) seeking 'Redressal of Grievance (RoG)' with the prayer that the respondents review their decision of selecting officers to the post of Admiral Superintendent Dockyard (ASD). However, this was rejected by the Chief of Naval Staff (CNS) being devoid of merit, who also clarified that the appointment to the post of ASD was not mandatory for promotion to the rank of V Adm. The applicant was also informed that the applicant's CRs endorsed by reporting officers in MoD had been moderated at the Naval Headquarters (Naval HQ) as per existing norms and guidelines. The applicant then submitted another application dated 27.07.2020 (Annexure A-5) with a view to inform the CNS regarding the work undertaken by the applicant as TM (M&S). On not being empanelled by PB No 1/Oct 2020 to the rank of V Adm, the applicant submitted a statutory complaint (RoG) dated 10.12.2020. This was finally rejected vide order dated 29.10.2021.

4. It is the case of the applicant that consequent to promulgation of channel of reporting for the officers posted to the Acqn Wg, wherein the applicant's IO was DG (Acquisition), RO was the

Defence Secretary, and the 'Accepting Officer' was the RM, the CR could not have been moderated by the CNS, as the SRO/NSRO. It is the apprehension of the applicant that he was not empanelled to the rank of V Adm due to the moderation of CRs carried out at the Naval HQ by the CNS. Hence the OA.

### **Arguments by the Counsel for the Applicant**

5. The counsel reiterated the service profile of the applicant and highlighted his professional achievements and contributions in various appointments. He then drew our attention to MoD letter dated 14.06.2012 (Annexure A-2) vide which the channel of reporting of the TM(M&S) and his subordinate staff was promulgated. The counsel emphasized that the fundamental concept laid down and emphasized in this letter was that all reporting officers must be these who supervise the work of the officer being reported upon. The counsel then elaborated on the channel of reporting of the TM (M&S), in that DG Acqn was the IO, Defence Secretary was RO and the RM was the Accepting Officer. The counsel then drew our attention to the applicant's applications dated 04.12.2019 (Annexure A-3) and 24.07.2020 (Annexure A-5) and explained that the promulgation of the channel of reporting by MoD letter dated 14.06.2012 had been brought to the notice of the

Naval HQ and yet, contrary to the provisions of the letter, the CRs of the applicant had been moderated by the CNS. The counsel then drew our attention to Annexure A-1 of the applicant's rejoinder and explained the comparative table giving the details of the applicant's demonstrated performance in comparison to the other officers who were empanelled, and emphasised that in spite of the applicant's proven professional acumen and contribution to the organisation, he had not been empanelled.

6. The counsel then elaborated on the applicant's consideration by the PB No 1 in Oct 2020 and highlighted the fact that he was non-empanelled due to the arbitrary moderation carried out in the CRs. Further referring to the statutory RoG dated 10.12.2020 filed by the applicant against his non-empanelment, the counsel explained that it was yet to be disposed of.

7. The counsel then drew our attention to Special Navy Order No (Spl) 01/2012. Referring to Para 13 to 15 of the SNO, the counsel elaborated on the conduct of the PB No 1. He then drew our attention to Para 26 of the Navy Order regarding PARB and highlighted that that only CRs of Capt and Commodores were moderated by the CNS and were therefore not to be reviewed by PARB. The counsel further emphasized that the CNS could not have

thus moderated the applicant's CR, in the absence of any policy or statutory provision for the same.

8. The counsel then drew our attention to Special Navy Order 02/2015 which lays down the channel of reporting of Naval officers posted in various appointments which are normally held by IN officers. In particular, he drew our attention to Table 59 pertaining to the reporting channel of Naval officers posted to MoD Acqn Wing. The counsel explained that the Spl Navy Order set out the channel of reporting of the TM(M&S), with the DG Acqn/Defence Secretary/RM as the IO/RO/Accepting Officer. The counsel emphasised that since no NSRO was indicated, therefore, no one else was empowered to moderate the CRs once they had been reviewed by the reporting officers as stipulated in the MoD letter and the Spl Navy Order.

9. The counsel then drew our attention to Para 17 of the counter affidavit which stated that IN officers served in various assignments outside the Navy and that the CRs of all such officers were subject to moderation. The counsel explained that in all those cases the CNS was the NSRO and that in the case of the applicant the CNS was not the NSRO. The counsel emphasised that the CNS was therefore not entitled to moderate the CRs.

10. Relying on the AFT (PB) Order dated 06.01.2012 in OA No.155/2011, **Gp Capt T M Rao** Vs. **Union of India & Ors**, the counsel briefly explained the case in that OA, which involved the downward moderation by the Air HQ, of a CR earned by the petitioner while serving with DRDO, and wherein the AFT remitted the matter back to Air HQ for reconsideration and fresh moderation. The counsel then explained that in a similar manner, the applicant had earned these CRs whilst serving with the MoD, outside the Service organisation, and had been reviewed by the Defence Secretary and accepted by the RM. Thus, reporting officers who have knowledge about the work and contribution of the applicant had assessed him. Therefore, such a CR which has already been reviewed by the RM himself, cannot be further moderated by the CNS.

11. The counsel then referred to the AFT (PB) order dated 18.05.2015 in OA No.363/2014, **AVM Sanjay Sharma** Vs. **Union of India & Ors** (Annexure A-10), where the petitioner had not been approved by PB No 1 as his CR had been moderated. The AFT had examined all the CRs and held that the review of seven CRs from Dec 2009 to Nov 2013 had been bad in law and had directed



that the petitioner be reconsidered for promotion after deleting the review carried out by the SRO.

12. The counsel then relied on AFT (PB) order dated 13.04.2015 in OA No.76/2014, **Gp Capt Ganga Dutt** Vs. **Union of India & Ors,** wherein the petitioner had prayed that the moderation carried out in his CRs by the Air HQ be set aside, and that he be reconsidered by PB-1. The Counsel emphasised that the Tribunal had remanded the matter back to the Respondents to reconsider the moderation of the CR for the year 2007 and consider the petitioner afresh for promotion, if required.

13. The counsel concluded by vehemently asserting that the unauthorized moderation of the CRs by the CNS had caused serious prejudice to the applicant, resulting in his non-empanelment and therefore, the moderation undertaken was required to be rescinded, and the applicant considered afresh by PB No 1.

#### **Arguments by the Counsel for the Respondents**

14. The counsel reiterated the prayers made in the OA and elaborated on the appointments held by the applicant. The counsel then explained the organization of the Acqn Wg and elaborated that the Technical Managers of the three Services and their staff were an interface between the respective Service HQ and the MoD to



facilitate a smooth acquisition process. Further elaborating on the charter of duties of TM (M&S), the counsel emphasized that the applicant was posted as part of the Service HQ and was not on deputation as referred to in the case of **Gp Capt T M Rao** (supra), wherein the petitioner then had been posted out of the organization. The counsel further emphasized that since the applicant remained in the organization, moderation of CRs had to be done as is done for all other applicants, and added that it was in fact those who were outside the organisation, who were denied a level playing field. The counsel then drew our attention to the MoD letter dated 14.01.2012 (Annexure A-2) and elaborated that the APAR Rules were not in conflict, as all that it stated was that the reporting officers of the officer being reported upon can only be those who supervise the officer's performance. Thus, all that the letter of 14.06.2012 lays down was the chain of reporting by officers who directly supervise the performance of the TMs. He further added that since the applicant was posted as part of the Service, the applicant was required to be examined as per the rules applicable to his peers. The counsel further emphasised that even if the applicant had got a poor CR, it would have been suitably moderated.

15. Relying on AFT(PB) Order dated 27.11.2010 in OA No.339/2019, **AVM Praveen Bhat** Vs. **Union of India & Ors**, wherein the petitioner had challenged the moderation of his CR by Air HQ earned as the Dy MS to the President of India, the counsel elaborated that the Air HQ had considered the report of the petitioner as inflationary in comparison to the general norms of the Air Force and also in comparison to the average rating of the applicant over the past five years, and had thus moderated the CR as per the policy in vogue. The AFT(PB) held that the moderation had been done fairly by Air HQ/ CAS as per policy which was applied uniformly across the Air Force and therefore, did not interfere in it.

16. Further, referring to the case of ***Gp Capt T M Rao*** (supra), the counsel explained that the petitioner in that case had been posted to DRDO in a specialist appointment, and thus considering his achievements and contributions, the AFT had remitted back the case to the Respondents for re-consideration of ACR based on his achievements. The counsel then emphasized that in the case of the applicant here, it was a regular appointment.

17. Further referring to the assessment, the counsel emphasized that in certain CRs the applicant had been assessed above the

possible maximum. Thus, it was moderated as per his past performance.

18. The counsel then drew our attention to Corrigendum No.1 to Navy Instruction 20/90 regarding the amendment issued regarding CR of officers and elaborated that as per this Corrigendum issued on 01.01.2000, all reports on Naval officers of the rank of Lt Cdr and Cdr will undergo a Performance Appraisal Review at Naval HQ by a PAR Board. And that a similar review of reports of all Naval officers of the rank of Capt and above will be undertaken and gradings suitably moderated by CNS as the SRO/NSRO. The counsel emphasized that, notwithstanding the channel of reporting laid down, the CNS was entitled to moderate the CRs of all Naval officers of the rank of Capt and above, as is being done uniformly for all such officers, irrespective of where they are posted.

19. The counsel concluded that the applicant was posted to a regular appointment within the Service and that as per the Regulation of the IN, the CNS was empowered to review and moderate the CRs of all Naval officers of the rank of Capt and above. Thus, the CR of the applicant has been accordingly moderated, as is done for all similarly placed officers and, therefore,

there was no mala fide in this action and, therefore, the OA be dismissed.

### **Consideration**

20. Having heard both the parties at length, the only issue to be considered is whether the Respondents were entitled and justified in moderating the CRs of the applicant, earned in the appointment of TM(M&S). We have examined the relevant policies, the CR dossier of the applicant and the file pertaining to the examination of his ROG submitted by the respondents in the court.

21. The MoD letter dated 14.06.2012 lays down the channel of reporting in respect of officers posted to the Acqn Wg. The channel of reporting has been laid down based on the APAR Rules, in that the reporting authority, reviewing authority and the accepting authority can only be such authorities who supervised the performance of the officer concerned. The letter is extracted below:

*"No.34/Gp.I/2005-D(Est.1/Gp.I)  
Government of India  
Ministry of Defence  
New Delhi, 14 June, 2012*

### **ORDER**

*WHEREAS with the approval of the Cabinet, Acquisition Wing in the Department of Defence was created vide this Ministry's Order No.A- 11015/2/2011-D (Estt.1/Gp.I) dated 7<sup>th</sup> August, 2002. As per the order the Acquisition Wing is headed by Special Secretary (Acquisition) [subsequently designated as Director General (Acquisition)] duly assisted by Acquisition Managers, Finance Managers and Technical Managers. Further, as per the order, there are 3 Technical Managers selected from amongst the service officers with Two Star Rank, one each from Army, Navy and Air Force who are assisted by a Core Team of Officers provided from within the sanctioned strength of the three services.*

AND WHEREAS as per the decision the Technical Managers are borne on the strength of the Ministry of Defence instead of Service Headquarters.

AND WHEREAS a decision was also conveyed vide this Ministry's ID No.D-34-Gp.1/2005-D (st.I/Gp.I) dated 14<sup>th</sup> January, 2005 that Defence Secretary will be the final authority for recording the remarks in the Performance Appraisal Report of All Technical Managers.

AND WHEREAS it is observed in the meantime, different wings of Armed Forces have issued separate orders at their level notifying the channel of reporting for such technical managers and the core team assisting them in such a manner that their PARs are being written by the officers of Armed Forces who have got no direct relation with the Acquisition quite oblivious of the fact that these officers from the Armed Forces are working in Acquisition Wing under the direct supervision and administrative control of DG (Acquisition).

AND WHEREAS as per APAR Rules the Reporting Authority, Reviewing Authority and the Accepting Authority for the officer reported upon can only be such authorities who supervise the performance of the officer concerned.

AND WHEREAS in view of the facts explained above, the APARs of the Technical Managers and officers working in the core under them need to be initiated, reviewed and accepted by those authorities who have direct functional relationship with these officers and have direct responsibility of supervising and monitoring their work.

NOW THEREFORE in order to bring uniformity and to streamline the channel of reporting in conformity with extant rules/regulations in respect of officer working under the Acquisition Wing of Ministry of Defence, it has been decided with the approval of Hon'ble RM that henceforth following channel of reporting shall be followed:

A) LAND SYSTEMS WING:

Sr No	Rank	Post	Initiating Officer	Reviewing Officer	Accepting Officer
1	Maj Gen	TM(LS)	DG(Acq)	Defence Secretary	Raksha Mantri
2	Brig	Dy TM (LS)	TM(LS)	DG(Acq)	Defence Secretary
3	Cols	Dir(LS)	Dy TM	TM(LS)	DG(Acq)
4	Lt Cols/Majs	Jt Dir(LS)	Dy TM	TM(LS)	DG(Acq)

B) MARITIME & SYSTEMS WING:

Sr No	Rank	Post	Initiating Officer	Reviewing Officer	Accepting Officer
1	Rear Admiral	Technical Manager (MS)	DG(Acq)	Defence Secretary	Raksha Mantri
2	Commodore	Dy TM(MS)	TM(MS)	DG(Acq)	Defence Secretary
3	Capt	Tech Dir	Dy TM	TM(MS)	DG(Acq)
4	Commander	Jt Dir	Dy TM	TM(MS)	DG(Acq)

C) AIR WING

Sr No	Rank	Post	Initiating Officer	Reviewing Officer	Accepting Officer
1	Avm	TM(Air)	DG(Acq)	Defence Secretary	Raksha Mantri
2	Air Cmde	Dy (TM (Air))	TM(Air)	DG(Acq)	Defence Secretary
3	Gp Cap	Gp Capt AE	Dy TM (Air)	TM(Air)	DG(Acq)
4	Wg Cdr/ Sq Ldr	Wg Cdr/ Sq Ldr	Dy TM (Air)	TM(Air)	DG(Acq)

The above orders shall come into force with immediate effect, in supersession of all previous orders on the subject.

Sd/-  
(Naveen Kumar)  
Director(Estt)"

22. The Special Navy Order 2/2015 lays down the channel of reporting of Naval officers posted in various organizations within various establishment of the Integrated Defence Service HQ, various training establishments, DRDO establishments and other establishments in which Naval officers are posted to. Table 59 lays down the channel of reporting in respect of Naval officers posted to the Acquisition Wing of the MoD. Table 59 is based on the channel of reporting as set out in MoD letter dated 14.06.2012. The relevant Paras are extracted below.

*"0209. Channels of Reporting (COR) Normally, an appraisal will consist of three levels of reporting, ie by the immediate superior designated as the 10, followed by the next superior authorities in the chain designated as the RO, and the SRO. In some cases, there may be four levels of reporting ie. upto NSRO. In certain cases, there may be only two levels of reporting, and in exceptional cases only one level under normal circumstances, reports on officers of the rank of S Lt/Lt/Lt Cdr/Cdr up to 15 yrs of service and on all SD List and Re- employed Officers, may terminate at the level of a Rear Admiral and need not be reviewed by Cs-in-C/Vice Admirals. If there is no Rear Admiral in the chain, the reports will be reviewed by the COS of the parent Command or Controller/ APSO at IHQ MoD(N). However, reports on Commanding Officers, Officers-in-Charge and Heads of Units/ Organisations would continue to be initiated/ reviewed by the C-in-C, irrespective of the rank of the Appraiser. CRs in respect of Cdrs > 15 yrs of service and Capt(TS) will normally terminate at the level of Vice Admiral as RO/SRO/NSRO and those of Cmde/ Capt at the level of the CNS. An Index/Ready Reckoner for Channels of Reporting is placed at Appendix H. The units authorities have been grouped category-wise for ease of reference. Tables stipulating channels of reporting for various organisations/ establishments/units are given in Appendix J. The tables at Appendix J may be read in conjunction with the provision that in the event of the post of COS being tenanted by a Flag Officer of the rank of V Adm, all reports on officers of the rank of Capt (TS) /Cdr > 15 yrs of service would terminate at the level of COS as against AA. The provision only if COS is originally in the COR of the unit. At times ships are commissioned at locations outside their parent Command. A considerable period of time elapses before those ships are placed under the Actual Operational Authority. The Authority which does their tasking before these ships are placed under the Actual Operation Authority will be the 10 of such officers. RO/SRO/NSRO will be next superior authorities.*

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0210. Reports on Flag Officers Reports on Flag Officers are to be initiated on Form IN 475. Reports on Flag Officers holding "Double-Hat" appointments would be initiated on Forms IN 475 (DH-I) and IN 475 (DH-II). The channels of rendition of such reports would be indicated from time to time, when such Double Hatted appointments are promulgated.

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0214. Civil/Quasi - Military Units. All non-naval establishments organisations manned by civilians will be classified in this category. These would include DRDO establishments, deputations to Central State Government organisations, PSUs, Quality Assurance Organisations etc..

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0412. **Applicability to Officers Serving in Civil/Quasi-Military Units.** The above orders will also apply to officers serving in civil/quasi-military units on whom the ACR is initiated on Form IN 475-E."

**"TABLE 59 – NAVAL OFFICERS POSTEDS TO MOD ACQUISITION WING**

S No	Appointment	Initiating Officer	Reviewing Officer	Senior Reviewing Officer	Next Senior Reviewing Officer	Remarks
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1.	Tech Manager (MS) (Rear Admiral)	DG(Acq)	Def Secy	RM	-	
2.	Dy TM(MS) (Cmde)	TM(MS)	DG(Acq)	Def Secy	-	
3.	Director (Tech) (M) (Captain)	Dy TM(MS)	TM(MS)	DG(Acq)	-	
4.	Jt Dir (Tech) (M) (Cdr)qDir (Tech(M)	Dir (TechM)	DirTM(M)	Tm(MS)"		

23. The process of review of CRs of Naval officers is set out in 'Special Navy Order 01/2012 and the Regulations for the Navy. Relevant provisions are extracted below:

"(Spl) 01/2012

**Performance Appraisal Review Board**

24. Composition. Review of ACRs in respect of Cdrs and Lt Cdrs will be carried out by respective Performance Appraisal Review Board (PARB) appointed by the CNS. The details of Board composition are as follows:-

(a) Cdr

- (i) Chairman - Vice Admiral (X)
- (ii) Members - (aa) Rear Admiral (EL)  
- (ab) Assistant Chief of Personnel (HRD)
- (iii) Member Secretary - Principal Director of Personnel

(b) Lt Cdr

- (i) Chairman - Assistant Chief of Personnel (HRD)
- (ii) Member - Principal Director of Personnel
- (iii) Member Secretary - Principal Director of Personnel

25. **Function.** The PARB will meet, as required, to review all the confidential reports received on officers in the rank of Cdr & reports in the rank of Lt Cdr after completion of nine years of service. The PARB will analyse instances of any deviations (spikes) in reports with regard to past trend and make appropriate recommendations based on PARB norms for the approval of the Chief of the Naval Staff i.e., apply appropriate index correction or accept deviation. Previously PARBed reports will not be normally reviewed except in cases where reports pertaining to period prior to the reviewed reports are received subsequently or where a decision to review reports is taken consequent upon relief granted to the officers, or where an officer's spike in report is consistently sustained in subsequent reports. In all cases, review of PARBed reports will be undertaken only after approval by the Chief of the Naval Staff

26. **Timely Completion of PARB.** The process of PARB will be completed and the approval of CNS obtained, well before the concerned officers come up for consideration by a Promotion Board. PARB members shall be available to review reports where inconsistency has been observed by PB 2 in exceptional cases Prior approval of CNS will be obtained before review of such reports by PARB

NOTE: ACRs on Captains and Commodores are moderated by the CNS and will not be reviewed by the PARB.

**Competent Approving Authority**

27. Recommendation of Promotion Boards I and IA are approved by the Appointment Committee of the Cabinet (ACC) and Ministry of Defence respectively. The recommendations of Promotion Board 2 are approved by the CNS."

24. Regulation 2501. Chapter 25 of the Regulations for the Navy (1991) lays down the various regulations pertaining to the personal records of officers and sailors and Section - II pertains to officers. Regulation 2501, in Section-II, Chapter 25 lays down the Regulations on 'Confidential Reports on Officers' and has details from Para 1 to 14. Navy Instruction (NI) 20/90 is the instruction regarding rendition of CR as given in Regulation 2501.

**Corrigendum No.1 dated 01.01.2000 to NI 20/90 has added Sub-Regulation 15 to Regulation 2510.** While Note to Para 26 of Special NO 01/2012 states "ACRs on Captains and Commodores are moderated by the CNS and will not be reviewed by the PARB", and thus there was no mention of Flag ranks, the corrigendum states "(2) A similar review of the reports of all naval officers of the rank of Capt and above will be undertaken and gradings suitably moderated by the Chief of the Naval Staff as Senior Reviewing Officer/Next Senior Reviewing Officer" The Corrigendum is reproduced below:

"Appendix  
(Refers to Para 1(a))

For Official Use only

NAVY INSTRUCTION

CORRIGENDUM No.1

New Delhi, Saturday, January 1, 2000/11

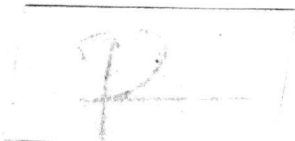
PERSONAL RECORDS

Navy Instruction 20/90 regarding Chapter 25, Regulations for the Navy 1965 Part 1. Non-Statutory, (Personal Records) is amended as under:

Add the following sub Regulation 15 to Regulation 1510 (Confidential Reports on Officers)

15. **PERFORMANCE APPRAISAL REVIEW-** (1) All reports on Naval Officers of the rank of Lt Cdr and Cdr will undergo a 'Performance Appraisal Review at Naval Headquarters by a Performance Appraisal Review Board (PARB) with a view to analyse Instances of wide deviations from their previous overall career profile. The reporting/reviewing officers will be required to support very high/low markings in the remarks column. While reviewing the reports at Naval Headquarters, numerical grades may be suitably moderated on the recommendations of the PARB with the approval of the Chief of the Naval Staff so as to bring them in tune with officers demonstrated past performance. CNS will lay down detailed guidelines to be followed for this purpose.

(2) A similar review of the reports of all naval officers of the rank of Capt and above will be undertaken and gradings suitably moderated by the Chief of the Naval Staff as Senior Reviewing Officer/Next Senior Reviewing Officer.



25. Thus, while the MoD letter dated 14.06.2012 and Special Navy Order 2/2015 lays down the channel of reporting of Naval officers posted in the Acqn Wg, Sub Regulation 15 to Regulation 2510 categorically lays down the instructions regarding Performance Appraisal Review and the conduct of similar reviews of reports of all Naval officers of the rank of Capt and above and gradings being suitably moderated by the CNS in his capacity as SRO/NSRO. It is seen from the record that the process of PAR of Capt and above by the CNS is uniformly carried out for all officers. We, therefore, find that the respondents are entirely justified in carrying out PAR of the applicant as mandated by the Regulations of the Navy in Sub Regulation 15 to Regulation 2510, which in no way is in conflict with MoD letter dated 14.06.2012 or No (Spl) 2/2015 which merely lays down the channel of reporting.

26. A similar review and moderation is carried out by the IAF, and this has been examined in our Order dated 04.03.2024 in OA No.987/2020, **Gp Capt AP Ranganathan** Vs. **Union of India & Ors.** Relevant extracts are reproduced below:

Review of CRs at Command HQ/Air HQ

21. Appraisal Reports of IAF officers is governed by AFO 06/2012. Review of ARs is governed by Para 18 and Review of ARs at Air HQ/Civil HQ is governed by Para 48 and 49 of the AFO. They are extracted below:

"18. The RO will be the officer senior to the IO and higher in the chain of command. The SRO will be the officer senior to the RO and higher in the chain of command. Grading / Av Grading given by the SRO or the last officer in the reviewing chain would be considered as the final grading of an AR. If the remarks of the reporting and reviewing officers are at variance, then the remarks annotated by the last reporting / reviewing officer would be considered as the final remarks. The final marks awarded to an appraisee would be reviewed in light of his/her performance profile. Any anomalies in assessment would be reviewed at Air HQ. Review of ARs for officers up to the rank of Gp Capt (TS) will be carried out by a board of officers (BOO) presided over by an officer who is of the same or higher rank than the last reviewing officer. Amongst numerous aspects, the appraisee's performance profile, job content, location and IO/RO/SRO combination are to be taken into account when carrying out this review and awarding the final marks.

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Review of ARs at Air HQ/Command HQ

48. Review of all ARs must be carried out at Command HQs/ Air HQs. The ARs of all officers up to the rank of Gp Capt (TS) should be reviewed by the senior most officers working under the respective branch head at Command HQ. These reviewing officers are to be designated by name by the AOC-in-C of the respective HO in writing. The letter authorising these officers for review at Command HQ should be sent to DPO-4 at Air HQs. The ARs of all officers of the rank of Gp Capt (Select) and above should be reviewed by AOsC-in-C at Command HQ and by PSOs at Air HQ.

49. Whenever the RO / SRO is posted at Command/ Air HQ, their review would be construed as Command HQ / Air HQ review. The reviewing officers at Air HQs /Command HQ should check correctness of the AR as mentioned in this AFO and should also include the following in their review: -

(a) ARs of Wg Cdrs holding appointments of Unit Commander, COO, CEO and C Adm O at Units / Stations / Wings should be reviewed by the AOsC-in- C at the Command HQ and the respective PSOs at Air HQ. ARs of Sqn Ldrs / Flt Lts holding the appointments of CO of units should be reviewed at the level of respective Branch heads /PSOs at Command 1 Air HQ.

(b) The rank of reviewing officer at Command HQs/ Air HQ should at least be the same as that of the last reviewing officer in the appraisal channel. If the reviewing officer so detailed is junior in service (even if of the same rank) to the officer who last reviewed the AR, then he/she should endorse the report if in agreement. In case he/she is not in agreement with the last reviewing officer, he is to put up the report for review to the next higher level. There is no mandatory period of contact with the appraisee for the Command review.

(c) Check the assessments, recommendations and remarks of the reporting officers for any inconsistencies and anomalies. Take necessary corrective action and detail the same in the remark's column.

(d) Reviewing officers at Command HQ / Air HQ, who are not IO / RO / SO, may give their overall assessment in Professional / Behavioural traits. They should enter the numerical grading in the boxes provided in

their remarks column only if they are not in agreement with the SRO's grading. If they are in agreement with the SRO's assessment then they should put a cross mark in the boxes. Whenever a reviewing officer wants to change the numerical assessment assigned by the previous reporting officer, reasons for doing so must be adequately brought out in narrative form in the remark's column.

(e) All ARs with grading of 7.5 and above in either Professional factors or in Behavioural factors or in both and all Adverse ARs are to be reviewed by AOsC-in-C at Command HQ or respective PSOs at Air HQ."

22. As per the provisions of AFO 6/2012, the review of all ARs with grades of 7.5 and above in either 'Professional Factors' or in 'Behavioural Factors' or in both and all adverse ARs are to be reviewed by AOC-in-C at Command HQ or respective PSOs at Army HQ. Thus, the process of review is uniformly applied to all officers. Moreover, many IAF officers are posted/ deputed to Army, Navy, Tri-service institutions and civil organisations. The appraisal methodology of these organisations is different from that of IAF. This manifests in the IAF officers, serving in such organisations, being assessed on different scales. The appraisal report is an assessment of demonstrated performance and manifested behaviour during the period of report. Review of the ARs at Air HQs is a key element of the reporting system and is scientifically designed to rule out anomalies and inconsistencies in ARs and ensures level playing ground for all the officers of the Air Force. Variation review at Air HQs is carried out when a large upwards and downwards variation is noticed between the numerical grading awarded, when compared to the officer's AR average for the preceding five years. The Air HQ review is needed to maintain objectivity and uniformity in assessments of all officers.

23. The final review of ARs at Air HQ is governed by Para 18 of AFO 06/2012. Para 18 provides for review of AR in comparison to the past five-year performance profile of the officer. Since the record of past five-year performance profile is only available at Air HQ, the review contemplated in Para 18 can only be done by the competent authority at Air HQ and not by any authority in a lower formation including AOC-in-C at the Command HQ. On the basis of performance profile of the appraisee, the Air HQ reviews the final grading/marks without any change of assessment made in the remark's column. The issue of Final Review of AR at Air HQ has been examined and upheld by this Tribunal in numerous cases;

(a) **Gp Capt VT Parnaik Vs. Union of India** [OA 600 Of 2010] dated 04.02.2011

(b) **Gp Capt TM Rao Vs. Union of India** [OA 155 OF 2011] dated 06.01.2012

(c) **Gp Capt RK Khattri Vs. Union of India** [ OA 376 OF 2013] dated 15.01.2014

(d) **Gp Capt NPS Thaprial Vs. Union of India** [OA 724 of 2019] dated 15.03.2019

Thus, we have no hesitation in upholding the primary review undertaken at Air HQ as part of the organizational system of maintaining objectivity and uniformity in the appraisal system.

27. In the Army too, all the CRs of Brig and above are reviewed by the COAS. MS Branch letter dated 14.06.2019 'Endorsement of CRs by COAS: Major Generals & Above' states that the COAS will

endorse CRs of all Maj Gen and above, when not included in the main line channel of reporting on a separate form enclosed. Therefore, just as the CR of TM (M&S) is reviewed/ moderated by the CNS, the CR of the TM (Land Systems), the Army Maj Gen posted in the Acqn Wing is also reviewed by the COAS. The letter dated 14.06.2019 is reproduced below:

Military Secretary's Branch  
IHQ of MoD (Army)  
DHQ PO, New Delhi - 11

A/18571/Policy Gen/MS 4D (Channels)

14 Jun 19

HQ Southern Comd (MS)	Directorate General of National Cadet Corps
HQ Eastern Comd (MS)	Directorate General of National Security Guards
HQ Western Comd (MS)	Directorate General of Resettlement Directorate
HQ Central Comd (MS)	General of Special Frontier Force Directorate
HQ Northern Comd (MS)	General of Border Roads
HQ ARTRAC (MS)	Directorate General of Quality Assurance (Adm-4)
HQ SW Comd (MS)	Defence Research & Devp Org (Dte of Pers)
HQ SFC (MS)	Defence Services Staff College
HQ IDS (MS & SD)	National Defence College
HQ ANC (MS & SD)	National Technical Research Organisation Tech
MS to President	Manager (Land System Acquisition Wing)

ENDORSEMENT OF CRS BY COAS: MAJOR GENERALS & ABOVE

1. Please refer :-
  - (a) Para 106 of the Regulations for the Army (Revised Edition), 1987.
  - (b) Para 5, 40, 41 & 137 of Army Order (AO) 02/2016/MS.
2. In accordance with provisions of 'Regulations for the Army' & AO 02/2016/MS; the COAS will endorse Confidential Reports (CRs) in r/o all Major Generals & above, when not included in mainline channels of reporting on a separate form enclosed. Major aspects with respect to such endorsement will be as under :-
  - (a) Endorsement by COAS will be applicable in r/o all reports mentioned at Para 6(a) to (e) of AO 02/2016/MS i.e. whenever a CR is due.
  - (b) Form for endorsement by COAS will be forwarded by the rate to MS-X (MS Branch).
  - (c) Communication of assessment will be governed by provisions of Para 137 of AO 02/2016/MS
3. Endorsement by COAS will be applicable with effect from reporting year 2019-20.
4. Form for endorsement by COAS is available for download on MS Web.

5. Contents of this letter may please be disseminated to concerned formations/ units/ establishments.

Sd/-  
(CP Sangra)  
Maj Gen  
Addl MS (B)  
for MS

28. Further as part of the internal validation process in the MS Branch, near perfect nine reports and perfect nine reports are completely expunged. Policy letters dated 27.12.2018 and 22.07.2019 were examined in our order dated 16.11.2022 in OA No.1248 of 2021, **Maj Gen SPS Sidhu Vs. Union of India & Ors.** Relevant extracts are reproduced below:

8. MS Branch policy letter dated 27.12.2018 is reproduced below.

1. Please refer the following:-

- (a) MS Branch letter No A/17151/MS 4 Coord dt 07 Nov 2007.
- (b) MS Branch letter No A/17151/MS 4 Coord dt 31 Jul 2008
- (c) MS Branch A/17151/MS 4 (Coord) dt 30 Sep 12.

2. Inflationary trend in CR reporting has impacted the discernment of merit in all selection processes, particularly in case of selection boards. A rise in Part Perfect Nine (Part PN) assessment in Personal Qualities (PQs) / Demonstrated Performance Variables (DPVs)/ Technical Performance Variables (TPVs)/ Qualities to Assess Potential (QsAP) i.e. endorsement of all figuratives as 9s in one or more of the above mentioned qualities by a reporting officer in CRs has been observed. It is nearly impossible for an officer to be perfect in any of the above mentioned parameters, hence, a Part PN assessment is a hypothetical assessment. This anomaly is in violation of reporting norms and has led to inflated assessments in CRs. The same has been viewed by this Branch with concern.

3. All reporting officers are advised to consider the long-term implications of their assessment and therefore, be objective and conscientious while endorsing Crs so as to avoid such cases in future. In view of the foregoing, Part PN cases in CRs would be scrutinised in detail at this Branch and suitable corrective actions will be initiated as per merits of the case.

4. The above may be widely disseminated for info and compliance.

9. MS Branch policy letter dated 22.07.2019 is reproduced below.

**INFLATIONARY TREND IN REPORTING:**

BRIGADIERS & MAJOR GENERALS

1. The 'inflationary trend in reporting' has led to predicament of merit discernibility in various Selection Boards/Panels especially in higher ranks. The aspect of inflationary reporting in Confidential Reports and responsibilities of reporting officers have been reiterated from time to time, however it has been observed with concern that such trend has continued unabated.

2. MS Branch has promulgated advisories on the reporting norms, however, it has emerged that these norms are being violated repeatedly. In view of the same, the guidelines on critical aspects with respect to violation of reporting norms in rendition of Confidential Reports in respect of Brigadiers and Major Generals are elucidated as under:-

(a) Perfect Nine (PN) Assessment. An assessment with only '9' in Personal Qualities (PQs) and Demonstrated Performance (DP) and Qualities to Assess Potential (QsAP) along with Box Grading '9' by a reporting officer is defined as a Perfect Nine Assessment.

(b) Part Perfect Nine (Part PN) Assessment. An assessment with all figuratives as '9' in PQs & DP or QsAP by a reporting officer is defined as a Part Perfect Nine Assessment.

(c) Near Perfect Nine (NPN) Assessment.

(i) Brigadiers. An assessment with **thirteen or more '9's** out of **sixteen** figuratives along with Box grading '9' is defined as NPN assessment. In case of civilian reporting officer, an assessment with **nine or more '9's** out of **eleven** figuratives in PQs & DP of the CR form along with Box grading '9' is a NPN assessment.

(ii) Major Generals. An assessment with **ten or more '9's** out of **twelve** figuratives along with Box grading '9' is defined as NPN assessment. In case of civilian reporting officer, an assessment with **six '9's** out of **seven** figuratives in PQs & DP of the CR form along with Box grading '9' is a NPN assessment.

3. It is highlighted that during the Internal Assessment at MS Branch, the CRS are analysed in detail on defined parameters to establish subjectivity in assessment before being accepted or processed for corrective action. During the analysis of CR, rating tendency of reporting officer(s), comparison to the past profile of the ratee derived from a computer based 'Dynamic Asymmetric Performance Variation' model and justification of ratee's performance by reporting officer(s) in the pen picture of CR are some of the factors dwelled upon.

4. Based on the foregoing, corrective action will be affected on the impugned CR by the competent authority. The reporting officers are advised to note the relevance of objectivity in reporting and understand their individual responsibility towards the process of fair and balanced reporting.

5. MS Branch letter number A/17151/4/MS 4 CR Policy dt 21 May 19 is hereby cancelled.

6. The contents of this letter may please be disseminated to all formations/establishments under your jurisdiction as applicable.

xxx

xxx

xxx

13. On examining CR-3, in which the reports of IO and RO have been expunged being 'inflationary', it is seen that the report was initiated by the IO, RO and SRO on

*02.04.2020, 08.04.2020 and 25.05.2020 respectively. The SRO had indicated that both the IO and RO had been liberal in their assessment. The internal assessment was carried out by the MS Branch on 12.06.2020 and since the figurative rating by both IO and RO in the QsAP was a perfect '9' it was expunged in consonance with Para 2(b) of the policy letter dated 22.07.2019 reproduced at Para 8 above. The applicant was then intimated vide letter dated 26.06.2020 (Annexure A-5) that the IO report in this CR had been expunged being 'inflationary'. The SSB was held on 22.06.2020.*

### PB-1(Tech)/2020

29. PB-1(Tech)/2000 was held on 17.08.2020 and considered a total of ten R Adms for promotion to the rank of V Adm against three vacancies. Of the ten officers considered, eight officers of Select List Year (SLY) 2016 and 2017 (04 of each SLY) were considered as fresh cases and two officers were review cases. Based on the overall comparative merit, the applicant was fourth against the availability of three vacancies. The Board Proceedings were then approved by the Competent Authority and promulgated on 05.11.2020.

### CR

30. For consideration by PB-1, all CRs in the rank of R Adm were reckonable and in the case of PB-1(Tech)/2020, CRs of the ten officers under consideration covered the period from 2017/18 to Jun 2020. In the case of the applicant, the reckonable CRs consisted of three CRs for the period Feb 18 to Jan 20 earned as TM(M&S). A R Adm is assessed on CR Form No IN-475 (Revised 2018). Section II(A) of the CR Form has six attributes which are to be marked on

a 09 point scale; *Exemplary Outstanding* – 9; *Outstanding* – 8; *Above average* – 7; *High Average* – 6; *Average* – 5; *Average* – 4; *Below average* – 3 ; *Poor* – 2 ; *Very poor* – 1. Thus, the maximum an officer can get is 6x9=54 marks. Summary of the gradings obtained by the applicant in the three CRs of the reckonable period and subsequent CRs earned in the same appointment are summarized below:

Ser	CR	IO	RO	SRO	Moderated
(a)	<u>02.12.2018</u> <u>31.07.2018</u>	53/54	53/54	53/54	47.5
(b)	<u>01.08.2018</u> <u>31.07.2019</u>	54/54	54/54	54/54	47.6
(c)	<u>01.08.2019</u> <u>30.06.2020</u>	54/54	<b>57/54</b>	<b>57/54</b>	48
(d)	<u>01.07.2020</u> <u>30.09.2020</u>	54/54	54/54	54/54	48
(e)	<u>04.11.2020</u> <u>31.07.2021</u>	54/54	54/54	-	48
(f)	<u>01.08.2021</u> <u>10.06.2022</u>	53.8/54	53.8/54	54/54	48

31. From the examination of the CRs of the remaining nine officers considered along with the applicant, it is seen that the *moderated* average CR rating of the CRs considered in respect of the other nine officers vary between 46.08 to 48. As seen from the Table above, in the case of the applicant, the initial non-moderated assessment at 53 or 54/54, and in the CR 8/19-6/20, both RO and the Accepting Officer have assessed the applicant *beyond the permissible*

*assessment @ 57/50 and 57/54, all of which is at gross variation to the normal variation of the assessment of the R Adm under consideration. Thus, the CRs of the applicant too has been moderated as has been done for others, with the first CR averaged at 47.50, the second CR at 47.60 and the third CR at 48.00. The final average of the applicant's three CRs is 47.70. In the case of Lt Cdrs and Cdrs, this review and moderation is carried out by the Performance Appraisal Review Board as stipulated. The fact that such moderation is carried to iron out such kinks and abnormal assessment, so that all officers are considered on a common yardstick, is upheld.*

32. As seen from the summary of the CR assessments in respect of the applicant, all his CRs are perfect nine (PN) or near perfect nine (NPN) reports. It is seen from the various cases adjudicated by this Tribunal that each of the Service has a policy to deal with PN and NPN reports. While the IN has the process of moderation by the Performance Appraisal Review Board, and the review/ moderation of all CRS of Capts and above by the CNS, the IAF also has a method of review at the Command and Air HQ. In the Army, the inflated assessments are entirely expunged, while deflated assessments are marked as deflated.

33. It was argued that since the RM had already reviewed the CR as the Accepting CR, the CNS could not have moderated it. On examination of records it is seen from the CR of the R Adm posted as Joint Secretary (C&M) in the Department of Military Affairs, that though the channel of reporting is Additional Secretary/CDS & Secretary DMA/RM, the CR has been moderated by the CNS. In a similar manner, the R Adm posted as ADG(A)/DG NCC, though the channel of reporting is DG NCC/Defence Secretary/RRM, the CR has been moderated by the CNS under Sub Regulation 15/ Regulation 2510. Thus, the process of review/moderation of CRs of Capts and above by the CNS is done uniformly across the board, and we therefore see no reason why the applicant's case should be any different.

34. On scrutiny of the CR dossiers we also find that in some cases, where the CNS has reviewed the CR as RO/SRO, no further review/moderation under Sub Regulation 15 of Regulation 2501 has been undertaken, as the moderation has been carried out during the process of review by the CNS as RO/SRO. However, in certain cases, it is seen that even where the CNS has reviewed a CR as RO/SRO, it has been subsequently once again reviewed/moderated by CNS under the provisions of Sub Reg 15 to Reg 2501. The Respondents

may review this aspect and lay down a clear policy so that the action of the Review/moderation is done uniformly.

### Complaints

35. The applicant filed two statutory complaints (Redressal of Grievance – RoG) under the provisions of Reg 235 and 238 of the Regulations for the Navy Part-III (statutory). The first RoG dated 04.12.2019 was against an unofficial information that the applicant had not been selected for the appointment of Admiral Superintendent Dockyard by the Board held in Sep 2019. The applicant had highlighted his achievements and contributions; questioned the legitimacy of moderation of the CRs by CNS which had been accepted at the level of the RM; need to verify if the CR of an earlier TM(M&S) had been moderated or not; incase the CRs earned as TM(M&S) cannot be relied upon, then post him to another appointment so that he could earn a report before the PB. These issues were examined in detail and the office of the DG Acquisition was informed vide Note No RS/8584/ROG/OA&R/19 dated 06.01.2020. The letter is reproduced below.

INTEGRATED HEADQUARTERS OF MINISTRY OF DEFENCE (NAVY)

DIRECTORATE OF PERSONNEL

REPRESENTATION: RADM R SREENIVAS (41185A)

1. Refer to TM(M&S) Note 4 dated 04 Dec 19, recorded on file No. 242/RS, forwarding representation 242/RS dated 04 Dec 19 in respect of RAdm R Sreenivas (41185A) aga his presumed non-selection for ASD Appointment by Flag Board 2019.

2. *The issues raised by the officer in his representation have been examined in detail by IHQ MoD(Navy). The selection process for the ASD appointment is currently ongoing the appointments are yet to be ratified. Notwithstanding, the officer's grievance that split of 2007 Capt's batch would have impact on his non-selection is misconceived. The split of 2007 Capt batch was a policy matter and was equally applied to all concerned and his batch has not been discriminated against. As regards his contention that the appt of DOI is not considered a premium posting, the same is not true. The post of PDOI is an important appointment progressing Indigenous efforts of the Navy. As regards moderation of his CR, the same has been done as per existing norms and guidelines across the board in respect of all officers of the rank of Capt/Cmde and above. It is also clarified that holding of ASD appt is not mandatory for selection and promotion to VAdm.*
3. *The Competent Authority after considering all the relevant factors has rejected representation being devoid of merit.*
4. *The officer may be informed accordingly.*

*Sd xxxxxx  
Dir (Pers) / OA &R*

36. The applicant then submitted a letter dated 27.07.2020 addressed to CNS prior to the conduct of the PB-1 in Aug 2020. The applicant had highlighted his achievements and contributions as TM(M&S) and also his accomplishments in a leadership role of repair yards. The applicant had once again mentioned the issue pertaining to the admissibility of moderation of his CRs earned as TM(M&S), which was contrary to the channel of reporting as promulgated vide MoD letter dated 14.06.2012. He had stated that the letter was meant to inform the CNS, and through the CNS, the members of the PBV, his achievements and contributions as TM(M&S).

37. Consequent to the conduct of the PB-1(Tech)/2020 and on not being empanelled, the applicant submitted a statutory complaint (ROG) dated 10 Dec 2020. This was examined by a duly constituted Special RACAB by CNS order No RS/8584/ROG/OAOR/19

dated 21.01.2021. The main grievances of the applicant were as under:

- (a) Moderation of CRs of Capt/Cmde and above was inconsistent with Para 26 of NO (Spl) 01/12, which actually has no mention of moderation of CRs of Flag officers.
- (b) That such moderation was in defiance of MoD order dated 14.06.2012 where in the laid down channel of reporting was DG Acqn/ Def Secretary/ RM. That if a Navy Order sought to include additional moderation, it defeated the spirit and objective of the MoD order.
- (c) Verify from the records if the CR of an earlier TM(M&S) had been moderated or not.
- (d) That the moderation in reference to earlier CRs was inconsistent with the Navy order as the PB1 was to only consider the three CRs earned in the rank of R Adm as TM(M&S).
- (e) That if the CR earned in MoD were unreliable, he should have been rotated through another appointment to earn a CR in the Service environment prior to the conduct of PB-1(Tech)/2000.

(f) That his tenures in repair yards and contribution had become inconsequential, since those officers who were approved had less experience than him.

(g) Possibility of low merit in PB-1A/2017 when the applicant was approved to the rank of R Adm, since he perceived that there may have been an attempt to downplay his merit since then.

38. The applicant had sought the following redressals:

(a) If in review, the applicant was not in higher merit based on his CRs from MoD, or was never higher in relative merit in comparison to the empanelled officers, the matter be treated as closed.

(b) That if the CRs earned in MoD placed him high in merit than those empanelled, and if the moderated had brought him down, and if his seniority is not restored leading to his selection, his application be forwarded to GoI.

39. Accordingly, the RACB examined the issues raised by the applicant and concluded that in comparison to those empanelled, the inter se merit of the applicant and those officers empanelled were different at different points of time. As regards comparison of un-moderated CRs, RACAB concluded that all merit lists were based

on the moderated reports and PARB as accepted by the Supreme Court. Accordingly, the RACAB concluded that though the applicant had performed well in his career, he was not empanelled purely on comparative merit and thus recommended that the complaint be rejected and that the complaint be therefore forwarded to MoD. The complaint was examined by GoI/MoD which then rejected the complaint vide its order dated 29.10.2021.

### **Conclusion**

40. Based on the above consideration we conclude that the CNS is entitled to review/moderate CRs of all Naval officers of the rank of Capt and above based on the provisions of Sub Regulation 15 of Regulation 2501 of the Indian Navy as promulgated vide Navy Instruction 20/90 as amended. This process is meant to analyse instances of wide deviation of a report from the previous overall career profile and have it suitably moderated to keep it in sync with an officers' demonstrated past performance. Thus, the process removes any subjectivity of a particular reporting/reviewing officer by correcting such deviations. The process ensures just as an officer does not suffer due to a strict appraisal no one is allowed to gain advantage of an unduly liberal reporting officer. This process is followed by all the three Services. We have no hesitation in

upholding the moderation carried out as the three CRs earned by the applicant as the TM(M&S) are a near 100% (and in one case more than the stipulated maximum) assessment, which is distinctly at variation from the applicant's overall past profile. The applicant has not been empanelled due to the limited number of vacancies and the overall comparative merit amongst those considered.

41. Accordingly, the OA is dismissed being bereft of merit.

42. No order as to costs.

43. Pending miscellaneous application(s), if any, stands closed.

Pronounced in open Court on this 27<sup>th</sup> day of September, 2024.

(JUSTICE RAJENDRA MENON)  
CHAIRPERSON

(LT GEN P.M. HARIZ)  
MEMBER (A)

Neha