

**COURT No.1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 1605/2022

Lt Col Sandeep Mishra	Applicant
Versus		
Union of India and Ors.	Respondents

WITH

OA 1702/20202

Lt Col Sumit Acharya	Applicant
Versus		
Union of India and Ors.	Respondents

For Applicants	:	Mr. Rajiv Manglik, Advocate and Mr. Indra Sen Singh, Advocate
For Respondents	:	Mr. Anil Kumar Gautam, Sr. CGSC

CORAM

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

ORDER

These applications have been filed under Section 14 of the Armed Forces Tribunal Act, 2007, by the applicants, who are serving Lt Cols in the Army and are aggrieved by the award of censure of 'Severe Displeasure' dated 14.06.2022 and have made the following common prayers:-

- (a) Call for the complete original record leading to the award of the impugned Censure Order dated 14.06.2022, including the

Original CoI proceedings and the file-notes pertaining to the office of HQ Northern Command, and after perusal thereof set aside said Censure Order;

(b) Direct the respondents to remove the impugned Censure-Order dated 14.06.2022 from the applicant's record of service and place the applicant in the same position in which he was before the award of said censure, meaning thereby that any loss or disadvantage suffered by the applicant on account of said censure order shall be undone;

(c) Direct the respondents that no cognizance of said Censure Order dated 14.06.2022 shall be taken against the applicant for any purpose whatsoever and that the applicant shall not be visited with any adverse consequence because of said Censure-Order;

(d) Set-aside the Show Cause Notice dated 09.05.2022 served to the applicant by respondent No. 5; and

(e) Issue any other order(s) and direction(s) as deemed appropriate by this Hon'ble Tribunal under the facts and circumstances of this case.

(f) In the interim; stay the operation of the impugned Censure-Order dated 14.06.2022 (Annexure A-1), pending final

adjudication and disposal of the instant OA and direct the respondents that pending final adjudication and disposal of the instant OA, no cognizance of the impugned Censure Order dated 14.06.2022 shall be taken against the applicant for any purpose what-so-ever and that the applicant's career will not be adversely affected only because of said Censure Order;

Brief Facts of the Case

2. The applicant in OA 1605/2022 (hereinafter referred to as applicant No.1) and applicant in OA 1702/2022 (hereinafter referred to as applicant No.2) were commissioned into the Army on 09.12.2006 and 10.12.2007 respectively. Both were serving in the GS (Ops) Branch of HQ Northern Command where the applicant No.1, was the GSO-1 (Ops) 'B' since 10.07.2020 and the applicant No.2, was the GSO-1 (Ops) 'A' since 15.06.2019. In Jan 2021, a soldier, attached to their Ops Branch was found in possession of classified data during leave. The data recovered from his laptop was traced back to the computers in the GS (Ops) Branch office. The soldier confessed to having stolen the data from a computer under the charge of GSO-2 (Ops), implicating two other soldiers as accomplices. On 28.01.2021, a Board of Officers was convened to seize the computers from the GS (Ops) Branch. Additionally,

on 10.02.2021, a Court of Inquiry (CoI) was convened to investigate the loss of classified data and material. Digital artefacts, including two pen drives and the seized computers, were sent for forensic examination. The CoI examined 20 witnesses, including key personnel from the GS (Ops) Branch, HQ Northern Command, and officers who held various positions during the incident. The CoI also examined officers from local units detailed for SITREP duties during the period of data leakage. Another CoI was convened by HQ Northern Command on 23.02.2021 to investigate the possible espionage activities involving the soldier. Subsequently, on 09.05.2022, both the applicants were issued Show Cause Notices (SCN) by the GOC-in-C HQ Northern Command, on the grounds of failure to ensure the security of data from the data PC of GSO-2 (Ops). In response, both the applicants submitted detailed replies on 13.05.2022, denying responsibility for the lapse. On 14.06.2022 both the applicants were awarded a censure in the form of a 'Severe Displeasure' by GOC-in-C Northern Command. Thereafter, the applicant No.1 wrote a letter dated 01.07.2022 to the COAS, urging him to exonerate him of the charges and remove the said censure order. The applicant No.1 further wrote a letter dated 12.07.2022 to the Military Secretary, pleading against

cancellation of his nomination in UN mission. The applicant No.2 also sought intervention from the COAS through a letter dated 22.06.2022, requesting a personal interview and redressal, as the censure prevented his promotion to Colonel. The applicant No.2 subsequently, filed a statutory complaint dated 25.07.2022, seeking to set aside the censure and secure promotion, which is still pending consideration. Hence, the OAs.

3. The Censure awarded to both the applicants are reproduced below:-

Censure Order dated 14.06.2022 of GOC-in-C, Northern Command to the Applicant in OA 1605/2022

CENSURE ORDER OF THE GENERAL OFFICER COMMANDING-IN-CHIEF, NORTHERN COMMAND TO IC-69808W LIEUTENANT COLONEL SANDEEP MISHRA, EX GSO-1 (OPERATIONS) 'B', HEADQUARTERS NORTHERN COMMAND, PRESENTLY POSTED AS COMPANY COMMANDER 1ST BATTALION LADAKH SCOUTS

1. I have considered the reply dated 13 May 22 submitted by IC-69808W Lieutenant Colonel Sandeep Mishra, Ex GSO-1 (Operations) 'B', Headquarters Northern Command presently posted as Company Commander 1st Battalion Ladakh Scouts to the Show Cause Notice dated 09 May 22 in light of the Court of Inquiry proceedings.
2. The Show Cause Notice dated 09 May 22 was issued to the Officer for his failure to ensure appropriate security of data pertaining to his charter of duties held in DATA PC in the office of GSO-2 (Operations), Headquarters Northern Command.
3. The Officer in his reply to the Show Cause Notice has primarily contended that charter of duties of various appointments is distinct with no overlap, that he was neither the custodian nor had access to the DATA PC, that the data was stored in DATA PC without his knowledge consent or permission, that no cyber violation was found in the computer held on his charge, that he was never the Cyber Security Officer, Branch Security Officer or Network Administrator, and that the breach of data from DATA PC happened while he was on leave, thus breach cannot be attributed to him.
4. I have considered the reply to the Show Cause Notice, various issues raised and the facts in light of the Court of Inquiry proceedings. The officer was responsible for the safe custody of data pertaining to his charter of duties which as evident from the Court of Inquiry proceedings, he failed to ensure, causing loss of classified data and jeopardising national security. Thus the lapse averred against the officer is well established from the Court of Inquiry proceedings.
5. In view of the aforesaid, I direct that my '**Severe Displeasure**' be conveyed to IC-69808W Lieutenant Colonel Sandeep Mishra, Ex GSO-1 (Operations) 'B', Headquarters Northern

Command presently posted as Company Commander 1st Battalion Ladakh Scouts for the lapse mentioned at Para 2 above.

Censure Order dated 14.06.2022 of GOC-in-C, Northern Command to the Applicant in OA 1702/2022

CENSURE ORDER OF THE GENERAL OFFICER COMMANDING-IN-CHIEF, NORTHERN COMMAND TO IC-68581F LIEUTENANT COLONEL SUMIT ACHARYA, EX GSO-1 (OPERATIONS) 'A', HEADQUARTERS NORTHERN COMMAND, PRESENTLY POSTED WITH 2/3 GORKHA RIFLES

1. I have considered the reply dated 13 May 22 submitted by IC-68581F Lieutenant Colonel Sumit Acharya, Ex GSO-1 (Operations) 'A', Headquarters Northern Command presently posted with 2/3 GORKHA RIFLES to the Show Cause Notice dated 09 May 22 in light of the Court of Inquiry proceedings.
2. The Show Cause Notice dated 09 May 22 was issued to the Officer for his failure to ensure appropriate security of data pertaining to his charter of duties held in DATA PC in the office of GSO-2 (Operations), Headquarters Northern Command.
3. The Officer in his reply to the Show Cause Notice has primarily contended that charter of duties of various appointments is distinct with no overlap, that he was neither the custodian nor had access to the DATA PC, that no cyber violation was found in the computer held on his charge, that he was never the Cyber Security Officer, Branch Security Officer or Network Administrator, thus, breach cannot be attributed to him.
4. I have considered the reply to the Show Cause Notice, various issues raised and the facts in light of the Court of Inquiry proceedings. The officer was responsible for the safe custody of data pertaining to his charter of duties which as evident from the Court of Inquiry proceedings, he failed to ensure, causing loss of classified data and jeopardising national security. Thus the lapse averred against the officer is well established from the Court of Inquiry proceedings.
5. In view of the aforesaid, I direct that my '**Severe Displeasure**' be conveyed to IC-68581F Lieutenant Colonel Sumit Acharya, Ex GSO-1 (Operations) 'A', Headquarters Northern Command presently posted with 2/3 GORKHA RIFLES for the lapse mentioned at Para 2 above.

Consideration

4. We have heard both parties at length in camera considering the nature of issue at hand. The applicants here were awarded a censure based on the DV Directorate policy letter dated 11.08.2017 on 'Award of Censure to Officers of Armed Forces'. The 2017 policy specifies that authority to award censure is granted to specific ranks, including the Central Government and the Chief of Army Staff (COAS). 'Severe Displeasure' and 'Displeasure' awarded by these

authorities are permanently recorded in the officer's dossier. A censure awarded by the GOC-in-C Command is however *operative for ten years from the date of the award.*

5. During the process of the in-camera hearing of the matter, the Court had observed the validity of the censure was inordinately long, thus, making what was essentially a relatively less severe punishment for not so serious offences more severe in practice due to the extended validity of such an administrative action. The respondents had then stated that action was in hand to issue a joint policy on Censure. Accordingly, in Oct 2023, The Dept of Military Affairs issued the Joint Armed Forces Order No.01/2023 dated 30.10.2023 on award of censure. The Services were required to issue their respective instructions based on the policy set out in the Joint Armed Forces order dated 30.10.2023. Based on the Joint Armed Forces Order 01/2023, the Army issued its revised policy dated 22.04.2024, which superseded the previous policy dated 11.08.2017. The old policy dated 11.08.2017, the Joint Armed Forces Order 01/2023 and the Army's new policy dated 22.04.2024 are reproduced below:

Letter dated 11.08.2017

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AWARD OF CENSURE TO OFFICERS

OA 1605/2022 and Anr.
Lt Col Sandeep Mishra and Anr.

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Introduction

1. The customs of service of the Army demand the highest standards of personal conduct and respect for military law. The selection of officers now requires the past disciplinary/administrative record of officers to be placed before the selection Boards. The award of censure to JCOs also requires distinct consideration consistent with their service conditions, promotion prospects and other politics on the subject.

2. This letter lays down the policy on award of censures to officers.

Award of Censure

3. The award of censure is an administrative action. In keeping with the customs of the service, it can be awarded to officers, including MNS officers and re-employed officers and JCOs. **It takes the form of 'Reproof', 'Displeasure' or 'Severe Displeasure' of the officer awarding the censure.** Censure is not awarded to a warrant officer or other Ranks. However, Reproof in terms of para 327 of Regulations for the Army (Revised Edition) 1987 may be administrative to a warrant officer/or Other ranks.

4. **Censure is awarded for an act, conduct omission or offence of a minor nature and not in a case involving moral turpitude, fraud, theft, dishonesty, financial irregularity and misappropriation.** The latter are to be tried by a court Martial or by prosecution in a civil court in accordance with para 432 of the Regulations for the Army (Revised Edition) 1987. An act/omission where there is an absence of criminal intent can be dealt with by award of censure. An offence will not be disposed off prematurely by award of censure without reference to a superior authority who may consider disciplinary action under the Army Act 1950.

5. Members of Court Martial or a Court of Inquiry will not be subjected to administrative action with regard to a lapse consuming a bonafide formulation of an opinion. Care will be taken by the authorities not to initiate action which may convey an Impression of Interference or exerting command Influence over the officers assigned to undertake Judicial function. A Commanding Officer holding a summary Court Martial does not fall under the above definition and hence may be censured subject to exercising almost discretion, by a competent authority for proved malady/ culpable negligence in the performance of such duties.

6. Cases which are not of a minor nature and yet do not involve moral turpitude, fraud, theft, dishonesty, financial, irregularity or misappropriation, and where trial by Court Martial is appropriate, be forwarded to Integrated HQ of MoD (Army), Adjutant General's Branch, D&V appropriate, be forwarded to Integrated HQ of MoD (Army), Adjutant General's Branch, D&V Dte at the discretion of the GOC-in-C for consideration of the award of censure by the COAS/Government.

Competent Authority and Operability of Censures

7. Reproof. The authorities to award Reproof, manner of administering the same and the application of mind to the case before award of Reproof has been laid down in Para 327. Regulations of the Army (Revised Edition) 1987

8. Displeasure / Severe Displeasure The authority to award censure, the type of censure that can be awarded and its operative duration given below :-

Authority who can Award Censure	Type of Censure that can be Awarded	Recording and Validity
Central Government	(i) Severe Displeasure	Permanently Recorded in the

	(ii) Displeasure	Dossier Permanently Recorded in the Dossier
COAS	(i) Severe Displeasure	Permanently Recorded in the Dossier
	(ii) Displeasure	Permanently Recorded in the Dossier
GOC-in-C Command, C-in-C (Army) Andaman & Nicobar Comd and C-in-C (Army) Strategic Forces Comd	(i) Severe Displeasure	Operative for ten years, effective from date of award
	(ii) Displeasure	Operative for ten years, effective from date of award
GOC Corps, GOC Area, DG AR, DG BR, DG NCC, Commandant Cat 'a' Est (not below Lt. Gen), Dy C-in-C (arm) Strategic Forces Comd (not below Lt Gen)	(i) Severe Displeasure	Operative for ten years, effective from date of award
	(ii) Displeasure	Operative for ten years, effective from date of award

9. Any authority in the chain of command may recommended the award of a censure by an authority superior to him if in his opinion, an award of censure by the said authority will not be adequate. In such cases, the relevant documents along with the recommendations of that authority should be forwarded to the superior authority for examining the case on its merits and taking an appropriate action thereon. An officiating incumbent with rank lower than the actual incumbent (not below Major General) can also award censure, However, In case of an officer of equivalent rank to the officiating incumbent the matter would be referred to the next higher Commander.

Procedure for the Award of Censure

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METHOD OF RECORDING OF CENSURES

22. A copy of the censure, viz, severe Displeasure or Displeasure along with a copy of show cause notice duly signed by the effected officer when received by the headquarters of the authority awarding the censure, will be forwarded immediately by Headquarters directly to MS Branch/MS 4(CR) under Intimation to AG/DV-2. In case of Brigadiers and above, it will be endorsed to MS(X) Instead of MS 4(CR). **The MS Branch will place the censure in the confidential record dossier of the concerned officer.**

Reporting of Award of Censure

23. Once a decision has been taken to award a censure, the concerned authority through the Command Headquarters will inform this fact by the fastest means with full particulars of the officer to the following authorities at integrated HQ of MoD (Army) :-

- (a) Adjutant General's Branch, D&V Dte.
- (b) MS Branch, MS 4(CR) / MS (X) for Brigadier and above.

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(c) Concerned controlled group of the MS Branch.

Effect of Censure on Career Aspects

24. The award of a censure does not debar an officer from being considered for promotion and other career aspects and may not by itself affect his promotion, selection, nomination, etc. However, while it is operative, it is taken cognizance of as part of the officer's overall record of service in assessing the officer as per relevant career policies governing such promotion selection nomination, etc. **Henceforth the past disciplinary / administrative record of the officer for the entire reckonable period or at least last ten years will be placed before the Selection Board.**

Redressal of Grievance

25. Complaints against the award of censure may be submitted and processed in terms of Para 364 of the Regulations for the Army (Revised Edition) 1987. An authority superior to the authority who awarded the censure may cancel the award, remit a portion or whole of it, or commute it if, in the opinion of that authority the censure is illegal unjust or excessive. However, while granting redress by mitigating the award, the compliant authority must invariably mention the date from which the said order is to be operative.

26. The cast of award of Censure to an officer cannot be reopened and processed afresh, save in exceptional cases where it suffers from lack of jurisdiction ab initio or non application of mind or a mala fide exercise thereof is evident from the fact and circumstances of the given case.

Implementation

27. This policy will be implemented with immediate effect. Recordable censures awarded earlier will be operative for the period as per original award. The record of recordable censures awarded to officers will be maintained for a period of at least ten years prior to date of issue of this policy.

28. This policy implements the guidelines issued vide Gol/MoD letter No 25(1)/2017-D (MS) at 12 Jul 2017, ADG D&V letters Nos 3290B/AG/DV-1 (P) dt 23 Apr 07, 22 Mar 16 and 11 Mar 17 wrt officers are hereby superseded.

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6. Joint Armed Forces Order No.01/2023 dated 30.10.2023 issued by MoD/Dept of Mil Affairs provides a comprehensive framework on award of censure to officers of the Armed Forces. As per this policy, the Central Government holds the authority to award censure with a permanent effect, while senior commanders like the COAS, CNS, and CAS can impose censure for specified periods, ranging from one to five years, depending on the severity and level

at which it is awarded. The operational period of censure affects its implications on promotion and selection; once considered by a Selection or Promotion Board, it ceases to be operative for future considerations. Notably, all awarded censures will be retained in an officer's administrative record, influencing sensitive appointments, re-employment, and selection for career courses, although it does not outright bar promotion. Additionally, the policy allows for redressal against awarded censure, enabling superior authorities to mitigate or cancel censure based on findings of illegality or excessiveness. ***However, censures awarded earlier will be operative for the period as per original award and the provisions of this instant policy will come into effect from the date of issue of the Censure Policy by MoD/DMA.*** The said policy is reproduced here as under:

JOINT ARMED FORCES ORDER NO. 01/2023

AWARD OF CENSURE TO OFFICERS OF THE ARMED FORCES

1. *Introduction* The customs of service in the Armed Forces demand highest standards of personal conduct and respect for military law. The selection of officers for various career and professional aspects requires the past disciplinary/administrative record to be placed before the Selection Boards/Promotion Boards. The award of Censure requires distinct consideration consistent with the service conditions, promotion prospects and other policies on the subject.
2. *Background* Censure is awarded for an act, conduct, omission or offences of minor nature. An act/omission where there is an absence of criminal intent can be dealt with by award of Censure. Censure can be awarded to officers, including MNS officers and re-employed officers. It takes the form of Reproof/ Warning. Displeasure/ Letter of Displeasure, Severe Displeasure/ Letter of Severe Displeasure.
3. *In the Indian Army and Indian Air Force, the award of censure is an administrative action, in keeping with the customs of the service. However, in the Navy,*

the award of censure to an officer is a minor punishment imposed under section 81(1)(n) of the Navy Act, 1957.

AWARDING AUTHORITY AND OPERABILITY OF CENSURE

4. *Reproof: Warning* The authorities to award 'Reproof/ Warning', manner of administering the same and the application of mind to the case before award of 'Reproof/Warning' will continue to be governed by respective Service Regulations and customs of service.

5. *Severe Displeasure/ Letter of Severe Displeasure and Displeasure/ Letter of Displeasure.* given below:- The authority to award Censure and its operative duration are as

SI No.	Authority who can Award Censure	Type of Censure that can be Awarded	Operative Duration
(a)	Central Government	(i) Severe Displeasure /Letter of Severe Displeasure (ii) Displeasure / Letter of Displeasure	Operative permanently from date of award
(b)	COAS/CNS/CAS	(i) Severe Displeasure / Letter of Displeasure Severe	Operative as specified by awarding authority upto a maximum of FIVE years from date of award. During the operative period, if a Censure has been considered once as a part of a Selection Board Promotion Board, it will cease to be operative thereafter.
		(ii) Displeasure / Letter of Displeasure	Operative as specified by awarding authority upto a maximum of THREE years from date of award. During the operative period, if a Censure has been considered once as a part of a Selection Board / Promotion Board, it will cease to be operative thereafter
(c)	GOC-in-C Command. Adm Authority (IN). AOC-in-C, C-in-C Andaman & Nicobar Command, C-in-C Strategic Forces Command & Equivalent Rank Officers of Army, Navy and Air Force	(i) Severe Displeasure/ Letter of Severe Displeasure	Operative as specified by awarding authority upto a maximum of THREE years from date of award. During the operative period, if a Censure has been considered once as a part of a Selection Board Promotion Board, it will cease to be operative thereafter
		(ii) Displeasure/ Letter of Displeasure	Operative as specified by awarding authority upto a maximum of TWO years from date of award. During the operative period, if a Censure has been considered

<i>SI No.</i>	<i>Authority who can Award Censure</i>	<i>Type of Censure that can be Awarded</i>	<i>Operative Duration</i>
			<i>once as a part of a Selection Board 1 Promotion Board, it will cease to be operative thereafter</i>
<i>(d)</i>	<i>GOC Corp, GOC Commandant Category Establishment Area, A (Commanded by Lt Gen & Equivalent Rank Officers), DG Assam Rifles, DG-Border Roads, DG NCC, DG Assurance, Quality Dy C-in-C, Strategic Forces Command (Not below rank of Lt Gen/ Vice Admiral/ Air Marshal)</i>	<i>(i) Severe Displeasure/ Letter of Severe Displeasure</i>	<i>Operative as specified by awarding authority upto a maximum of TWO years from date of award During the operative period, if a Censure has been considered once as a part of a Selection Board Promotion Board, it will cease to be operative thereafter.</i>
		<i>(ii) Displeasure/ Letter of Displeasure</i>	<i>Operative as specified by awarding authority upto a maximum of ONE year from date of award During the operative period, if a Censure has been considered once as a part of a Selection Board / Promotion Board, it will cease to be operative thereafter.</i>
<i>(e)</i>	<i>(e) GOC Division, GOC Sub Area & Equivalent Officers AFSOD</i>	<i>(i) Severe Displeasure/ Letter of Severe Displeasure</i>	<i>Operative upto a maximum of TWO years from date of award as specified by awarding authority. During the operative period, if a Censure has been considered once as a part of a Selection Board / Promotion Board, it will cease to be operative thereafter.</i>
		<i>ii) Displeasure/ Letter of Displeasure</i>	<i>Operative up to a maximum of ONE year from date of award as specified by awarding authority. During the operative period, if a Censure has been considered once as a part of Selection Board / Promotion Board, it will cease to be operative thereafter.</i>

Note 1. Quantum of award not to be less than six months and further in multiples of six months.

2. Paragraph 5 (d) & 5 (e) have been specifically included for Indian Army, due to its longer chain of command and may be adopted by IAF and IN, as suited to their functional requirements.

3 Post the operative period, the record of Censure will be retained in Disciplinary/ Administrative Record of the Officer.

6. Any authority in the Chain of Command may recommend the award of a censure by authority superior to him if in his opinion, an award of censure by the said authority

will not be adequate. In such cases, the relevant documents along with the recommendations of that authority should be forwarded to the superior authority for examining the case on its merits and taking an appropriate action thereupon.

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12. **Reporting of Award of Censures.** Once a censure has been awarded, the awarding authority will inform the next higher Commander in chain of the same. In addition, a copy of the censure, duly signed by the affected officer will also be forwarded to respective Service Headquarters (AG's Branch & MS Branch or equivalent) for the purpose of record keeping.

13. **Recording of Censures.** All censures awarded to an officer will remain part of the officer's administrative record in accordance with respective Service Regulations. However, the operability of such censures shall continue to be governed by the period as specified in Paragraph 5 above Procedure for record keeping of such administrative action will be evolved under the respective service arrangements. For the purpose of Selection/ Promotion Boards to be shared with Central Government, it would be sufficient to place the record of past 10 years instead of the overall records.

14. **Redressal Against Award of Censures** Redressal against award censure may be submitted and processed as per the respective service regulation. An authority superior to the authority who awarded the censure may cancel the award, remit a portion of whole of it, or condone, on the opinion of that authority, the censure is illegal, unjust or excessive. Any representation seeking redressal of censure should be finalised within two years from the date of receipt. Condonation of delay beyond the given timelines may be granted, depending upon merits of the case by the authority superior to the one who initiated/ finalised such administrative action but not below the level of GOC-in-C/ Equivalent Officer. While granting redress by mitigating, cancelling, remitting or commuting the award, the competent authority must invariably mention the date from which the said order is to be operative and also inform the unmediate superior authority of the same

15. **Review/ Revocation of Censures** The case of award of Censure to an officer should not be ordinarily reopened unless in exceptional cases where it suffers from lack of jurisdiction, or non application of mind or a malafide exercise of power etc. In the aforesaid cases and in cases where an Administrative Action has been initiated/finalised for acts involving Moral Turpitude, Fraud, Theft, Dishonesty, or Financial Irregularity/ Impropriety and Misappropriation, the authority superior to the one who initiated/ finalised such administrative action and not below the rank of GOC-in-C/ FOC-in-C/AOC-in-C shall be competent to invoke its inherent power suo-moto and revoke/ set aside such actions/directions and pass appropriate direction thereupon.

16. **Implementation of Service Specific Orders** For the purpose of carrying into effect the provisions of the policy, detailed procedure/ modalities on the aspects incidental to or connected with the award of Censure, considering the unique service conditions of Army/Navy/ Air Force, as the case may be, will be issued by the respective Service HQs within 60 days of the date of issue of this policy letter. Such service specific orders must be in consonance with provisions of this policy. **However, censures awarded earlier will be operative for the period as per original award and the provisions of the instant policy will come into effect from the date of issue of the Censure Policy by MoD/DMA**

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7. Subsequently all the three Service HQs issued their respective new policy based on the Joint Armed Forces Order

dated 30.10.2023. The Army HQ issued its directions vide policy letter dated 22.04.2024. It reinforces that censure is an administrative action reflecting the customs of service, applicable to minor infractions rather than serious misconduct involving moral turpitude, fraud, or dishonesty. Furthermore, the procedures for awarding censure, reporting, and redressal are detailed, ensuring consistency across the services. Censure remains a significant part of an officer's record, influencing career aspects while also providing a mechanism for review and redressal within specified timelines. It specified that the censure while being operative may be taken in consideration for an officer's career in various ways, including their posting to sensitive appointments, re-employment, deputation or secondment, and selection for career courses, UN missions, or foreign postings and the duration for which it will be applicable would be same as specified in Para 13 of the order dated 30.10.2023. However, old cases will continue to be governed by the old policy of 2017. This letter is reproduced below:

POLICY ON AWARD OF CENSURE TO OFFRS OF THE ARMED FORCES IN PURSUANCE OF JOINT ARMED FORCES ORDER NO 01/2023 DT 30 OCT 2023

1. *This policy letter must be read in conjunction with Joint Armed Forces Order No 01/2023 wrt award of Censure to officers of the Armed Forces which has been issued by Govt of India (Ministry of Defence) vide letter No 560/US (P)/D (N-11) 2022 dt 30 Oct 2023. In case of any conflict or doubt, the Joint Armed Forces order No 01/2023 shall have overriding effect.*
2. *This policy letter is being issued under Para 16 of the Joint Armed Forces No 01/2023 in order to bring into effect the procedure to be adopted on effect of award of*

censure taking into consideration unique service conditions of the Army. The Joint Armed Forces Order No 01/2023 provides for laying down the detailed procedure/ modalities for the purpose of carrying its provisions into effect, on the aspects, mentioned specifically thereat as also incidental to or connected with the award of Censure, considering the unique service conditions of the respective Service etc. In pursuance thereof, this policy is hereby issued and it should be read in conjunction with the said Joint Armed Forces Order.

3. **Applicability** The award of Censure is an administrative action, in keeping with the customs of the service which can take the form of 'Reproof', 'Displeasure' or "Severe Displeasure of the Authority/ Officer awarding the Censure. This policy is applicable to Officers, including MNS officers and re-employed Officers. Censure except Reproof (in terms of Para 327 of Regulations for the Army (Revised Edition), 1987) is not awardable to Warrant Offrs and Other Ranks. The award of Censure to JCOs shall continue to be governed by the existing policy on the subject.

4. Censure is awarded for an act, conduct, omission or offence of a minor nature and NOT in cases involving moral turpitude, fraud, dishonesty, financial irregularity and misappropriation. The latter are to be tried by a Court Martial or by a prosecution in a civil court in accordance with Para 432 of the Regulations for the Army (Revised Edition)-1987. An act/ omission where there is an absence of criminal intent can be dealt with by award of censure. An offence will not be disposed-off prematurely by award of censure, without reference to a superior authority who may consider disciplinary action under the Army Act 1950.

5. Presiding Officer/ Members of Board of Officers/ Court of Inquiry/ Summary of Evidence/ Court-Martial will not be subjected to administrative action with regard to lapse concerning a bonafide formulation of an opinion. However, there is no legal embargo to initiate action against such Presiding Officer/ members as aforesaid for any proved misconduct in performance of such duties. Care will be taken by the authorities not to initiate action which may convey an impression of interference or exerting command influence over the Officer assigned to undertake statutory functions.

6. Cases though not of minor nature but still do not involve question of moral turpitude, fraud, theft, dishonesty, financial irregularity or misappropriation, and where trial by a Court Martial is not practicable being time-barred or is inexpedient due to other reasons, may if found appropriate, be forwarded to Integrated Headquarters of Ministry of Defence (Army). Adjutant General's Branch, D&V Directorate at the discretion of the GOC-in-C for consideration of the award of censure by the COAS/ Central Government.

Competent Authority to award Censures

7. **Reproof.** The authorities to award 'Reproof, manner of administering the same, its effect and the application of mind to the case before award of Reproof has been laid down in Para 327, Regulations of the Army (Revised Edition), 1987.

8. **Displeasure and Severe Displeasure.** The newly promulgated Joint Armed Forces Order No 01/2023 on Award of Censure to Offrs of the Armed Forces dt 30 Oct 2023 gives out the authority competent to award a Censure, along with the operative period and role of chain of command in Para 5 & 6 of the policy. The effect of censure on the career prospects of the Officer has been given in Para 18 below.

Procedure for the Award of Displeasure/ Severe Displeasure

9. Broad procedure for the award of Censure has been covered in para 7-10 of the Joint Armed Forces Order No 01/2023 dt 30 Oct 2023. Certain explanatory provisions are reiterated in the succeeding paras.

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12. Para 10 of the Joint Armed Forces Order No 01/2023 states that in case the recipient Officer brings out any new facts in his reply to the SCN, these should first be investigated by the Competent authority before taking any further action, if considered appropriate. The term "if considered appropriate" would mean that the Competent Authority would investigate those fresh facts stated in the reply to SCN, only if they are not only verifiable but relevant and prima facie having a direct bearing on the act, conduct, omission or offence in question, necessitating any kind of investigation.

Award of Censure to Personnel of Other Services

13. **Award of Censure to Navy/ Air Force Personnel.** Army authorities shall be empowered to award censure to Navy/ Air Force personnel serving in or attached to the Inter-Services Organisation (ISO), duly notified in accordance with Inter-Services Organisation (Command, Control and Discipline) Act, 2023. However, such Navy/ Air Force personnel when serving in or attached to an organisation not duly notified as ISO, the Army authorities will not award Censure and if such a step is necessitated in the interest of discipline, the details of the case along with connected documents will be forwarded to the Integrated Headquarters of Ministry of Defence Army), Adjutant General's Branch, D&V Dte through staff channel.

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Reporting of Award of Censure

16. Once a decision has been taken to award a censure, the concerned authority through the Command Headquarters will inform this fact by the fastest means with full particulars of the officer to the following authorities at Integrated Headquarters of Ministry of Defence (Army):-

- (a) Adjutant General's Branch, D&V Directorate.
- (b) MS Branch (MS-4 CR/ MS-X for Brigadiers and above).
- (c) Concerned controlling group of the MS Branch.

17. Once a censure has been awarded, the awarding authority will inform the next higher Commander in chain of the same. In addition, a copy of the censure, viz, Severe Displeasure or Displeasure, duly received by the affected officer, will also be forwarded to Army Headquarters (AG's Branch/ DV Dte and MS Branch/ MS-4) for the purpose of record keeping. In case of Brigadiers and above, the same will be endorsed to MS (X) instead of MS-4(CR).

18. **Recording of Censure.** Aspects related to recording of Censure have been given in para 13 of the Joint Armed Forces Order No 01/2023 on Award of Censure to Officers of the Armed Forces dt 30 Oct 2023. The record of all discipline/ administrative action is being maintained centrally under the aegis of Adjutant General's Branch, D&V Directorate/ DV-2 (Records).

Effect of Censure on Career Prospects

19. The award of a censure does not debar an officer from being considered for promotion and other career aspects and censure, by itself, may not affect his promotion/selection. However, while it is operative, it is taken cognizance of as part of the officer's overall record of service in assessing the officer as per relevant policies governing such promotion/selection. As per Para 5 of the Joint Armed Forces Order No 01/2023, during the operative period of censure, it shall be considered by the Selection/Promotion Board only once and it shall cease to be operative thereafter for the purpose of Selection/Promotion Board.

20. The censure order, while it is operative, may be taken into consideration for the purpose of:-

- (a) Posting an Officer to sensitive appointment,
 - (b) Re-employment, (c) Deputation/ Secondment,
 - (d) Nomination/Selection for Career Courses,
 - (e) Selection for UN Mission/ Foreign posting.
- (1) For any other purpose as laid down from time to time by the MS Branch policies on the subject including the aforesaid aspects

Redressal of Grievances

21. Redressal against the award of censure may be submitted and processed in terms of Para 304 of the Regulations for the Army (Revised Edition) 1997. Details on the subject are covered in Para 14 & 15 of the Joint Armed Forces Order No 01/2023 dated 30 Oct 2023.

22. ADG DV/ DV-1 (P) policy on the subject 'Award of Censure in Officers promulgated vide letter No 32008/ AG/ DV-1 (P) dt 11 Aug 2017 is hereby superseded. However, it shall continue to apply in all the cases where Censure has been awarded under the aforesaid policy dt 11 Aug 2017.

23. Nothing contained in this Policy shall render invalid any action taken or acts performed, immediately after the promulgation of Joint Armed Forces Order No 01/2023 and prior to the issuance of this policy.

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8. The applicants here have been awarded the censure of 'Severe Displeasure' of the GOC-in-C Command on 14.06.2022 as per the old Censure policy dated 11.08.2017. **As per this old policy dated 11.08.2017, the validity of a censure by the GOC-in-C Command is operative for 10 years from the date of award.** As per the new common ensure policy issued vide Joint Armed Forces Order 01/2023, a censure of '**Severe Displeasure**' awarded by the **GOC-in-C Command is to be operative for the period as specified by awarding authority up to a maximum of THREE years from the date of award.** Also, during the operative period, if a Censure has been considered once

as a part of a Selection Board Promotion Board, it will cease to be operative thereafter. However, the new policy states '**However, censures awarded earlier will be operative for the period as per original award and the provisions of the instant policy will come into effect from the date of issue of the Censure Policy by MoD/DMA**'. Both the applicants have since been considered by No 3 SB and promoted to the rank of Col and are presently commanding their respective units.

9. This would imply that if both these applicants (Censure in Jun 2022) are being considered for a foreign assignment/important appointment in **2028** along with their batch mates, one of whom has been awarded a similar censure by a GOC-in-C as per the new policy in Dec 2023, the censure of the applicants would still be operative as they would have only completed 06 years from the date of award, while the censure awarded to their batch mate in Dec 2023 will no longer be operative since the maximum period of validity of a censure by the GOC-in-C is only three years. This, in our view is a travesty of injustice as the applicants and their batch mates are unequal in their disciplinary status, merely because of the direction that past cases will be governed by the old policy. In our considered view it is, therefore, imperative that the validity of all the

past cases which are operative as on the date of issue of the new policy, that is 30.10.2023, must be regulated as per the revised validity criteria and necessary endorsements made in the record of the concerned officers by the authority which awarded the censure under the old policy.

10. Having heard both parties at length during the in camera hearing, and considering the details of the case and taking into account the operating conditions in the GS (Ops) Branch of the Command HQ, we are of the view that the ends of justice would be met if the validity of the censure dated 14.06.2022 awarded to both the applicants be up to the date of this order. Necessary endorsements be made in the dossier of the applicants accordingly.

11. We, therefore, partially allow both the OAs and direct the following:

(a) The validity of the censure dated 14.06.2022 awarded to both the applicants here be limited to the date of this order, (i.e.,) 27.09.2024.

(b) Necessary endorsements be accordingly made in the dossier of the applicants and other records at various HQs.

(c) Since these censures have already been considered by the No 3 Selection Board in in the case of both the applicants, it

will be no longer operative for further promotion Boards, as given in the new policy dated 30.10.2023.

(d) Respondents are directed to review the Joint Armed Forces Order 01/2023 on Censure Policy and the Service specific instructions subsequently issued by the respective Service HQ, and issue necessary amendments to the effect that the validity of all operative censures issued under the old policy will be regulated as per the validity parameters laid down in the new policy dated 30.10.2023, from the date of its issue and necessary endorsements made in the concerned records.

12. No order as to costs.

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

Pronounced in open Court on this 27th day of September, 2024.


**(JUSTICE RAJENDRA MENON)
CHAIRPERSON**


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

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