

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

OA 2216/2021

Lt Col Ravinder Singh **Applicant**
Versus
Union of India and Ors. **Respondents**

For Applicant : Ms. Divya Kaushik, Advocate
For Respondents : Mr. Satya Ranjan Swain, Advocate

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 serving Lt Col in the Army and is aggrieved by the award of a Censure (Displeasure) by Comdt, College of Material Management (CMM), Jabalpur and rejection of his statutory complaint dated 13.12.2019, and has made the following prayers:-

- (a) To set aside the order of award of Censure Displeasure (Recordable) (Order No 1193/CI/RS/HM-22/AG(OS) and the DV ban wef 08 Dec 2018-20 May 19 and the Censure order dated 20 May 2019.

(b) To set aside the orders of the ibid Court of Inquiry ordered vide CMM Daily Part 1 Order No 1079/AG dt 06 Dec 2018.

(c) To set aside the ibid Govt orders No 48545/STAT/CC/1373/AG/1957/DV-4(B) dated 02 Sep 2021.

(d) To further issue any other appropriate order or direction which this Hon'ble Tribunal may deem fit in the facts and circumstances of this case and along with award the cost of this application in favour of the applicant.

2. The brief circumstances of the case are that the applicant was commissioned into the Army (6 GUARDS) on 13.12.2003. Due to a spinal injury sustained during the Ghatak (Commando) course, the applicant was placed in low medical category P2 (Permanent). Due to his medical condition, the applicant sought an Inter Arms to Services Transfer (IAST) and accordingly was transferred to Army Ordnance Corps (AOC) on 13.07.2009.

3. In 2018, while attending the Higher Munitions Course (Serial No.22) at CMM from 14.05.2018 to 08.12.2018, the applicant along with his wife and two young children went to the Dussehra Mela at Sadar Bazaar on 19.10.2018, where the applicant lost his military identity card. Following the loss of the identity card, the applicant

along with his wife and with the assistance of fellow officers present, the civilians and the local police conducted a thorough search, however, the identity card was not found. The applicant then reported the incident to the authorities at CMM and the local police.

4. On 23.10.2018, a Court of Inquiry (CoI) was ordered to investigate the circumstances surrounding the loss of the identity card. However, this inquiry was cancelled due to the Presiding Officer being junior to the applicant. Subsequently, a second CoI was convened on 06.12.2018, which concluded its proceedings on 08.12.2018. The applicant contended that the CoI was conducted improperly, claiming that it did not fairly consider his explanation that the loss was neither wilful nor intentional. He further argued that the inquiry was overseen by a staff officer who was part of the first CoI and was thus biased, undermining the fairness of the proceedings.

5. On 10.12.2018, the CoI proceedings were forwarded to HQ Central Command (GS Branch). Vide HQ Central Command letter dated 13.02.2019, CMM was intimated that the proceedings had been reviewed by the GOC-in-C Central Command who then directed that necessary administrative action be initiated against the

applicant for loss of his identity card. Accordingly, a Show Cause Notice (SCN) was issued to the applicant on 02.03.2019, to which he submitted a detailed response on 02.04.2019.

6. On 10.04.2019, a DV Ban was imposed on the applicant w.e.f. 08.12.2018 and this ban was provisionally lifted on 20.05.2019, following the award of the censure dated 20.05.2019 by Comdt CMM. Aggrieved on being awarded a censure, the applicant filed a statutory complaint dated 13.12.2019. He then submitted a RTI application to the Public Information Officer (PIO) at CMM, Jabalpur, on 29.04.2021, and subsequently filed an appeal on 14.06.2021. A response from the PIO regarding the appeal was received on 10.07.2021. The statutory complaint filed by the applicant was rejected by the competent authority vide order dated 02.09.2021. Aggrieved by the award of censure and rejection of the statutory complaint, the present OA has been filed.

7. The Censure awarded to the applicant is reproduced below:

No. 1193/CI/RS/HM-22/AG (OS)

**CENSURE ORDER OF COMDT, COLLEGE OF MATERIALS MANAGEMENT
JABALPUR TO BE CONVEYED TO IC-63520A LT COL RAVINDER SINGH**

1. I have considered the reply to the show cause notice submitted by IC-63520A Lt Col Ravinder Singh (previously of 18 FAD, now OS Dte IHQ of MoD (Army)), vide letter No.A/63520/RS/OS-6 Coord dated 02 Apr 19:

2. I have concluded that he has lapsed for not ensuring the safe custody of Iden Card bearing machine No.668092 dated 13 Dec 2003 issued by IMA Dehradun adequately, thereby leading to its loss.

3. I, therefore, direct that my "Displeasure" (recordable) be conveyed to IC-63520A Lt Col Ravinder Singh of OS Dte IHQ of MoD (Army).

Place : Jabalpur

(RKS Kushwaha)

Lt Gen

Dated : 20 May 2019

Comdt

8. We have heard both parties at length. The only issue for consideration is whether the respondents were justified in awarding a censure of Displeasure (Recordable) to the applicant for the loss of his identity card. The loss of a military identity card is a serious issue as a lost identity card is misused by miscreants and agents of the enemies of the nation, and hence is a matter of grave security risk. Thus, loss of identity cards by all ranks (officers and PBOR) are investigated and action taken against the defaulter for loss of govt property entrusted to the care of the individual. Offences related to property are given in the Army Act Section 52, which is reproduced below:

52. Offences in respect of property. Any person subject to this Act who commits any of the following offences, that is to say,-

(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful

9. Therefore, we find no mala fide in the action of the respondents in having initiated administrative action against the applicant and having him awarded a Censure of Displeasure (Recordable).

10. However, the censure has been awarded under the old policy dated 11.08.2017, which has been superseded by the Joint Armed Forces Order dated 01/2023 dated 30.10.2023 issued by MoD/Department of Military Affairs, and further promulgated by the respective Service HQs.

11. The applicant here was 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 Comdt of a Cat A establishment like the CMM is however *operative for ten years from the date of the award.*

12. During the process of hearing 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

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 of 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 maladies/ 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 Dossier
	(ii) Displeasure	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.
- (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. *Complains 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 GoI/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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13. 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 the said 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. 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 censure 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 once as a part of a Selection Board 1 Promotion Board, it will cease to be operative thereafter
(d)	GOC Corp, GOC Commandant Category Establishment Area, A	(i) Severe Displeasure/ Letter of Severe Displeasure	Operative as specified by awarding authority upto a maximum of TWO years from date of award During the operative period, if a Censure

SI No.	Authority who can Award Censure	Type of Censure that can be Awarded	Operative Duration
	(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)		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 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.
(e)	(e) GOC Division, GOC Sub Area & Equivalent Officers AFSOD	(i) Severe Displeasure/ Letter of Severe Displeasure	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.
		ii) Displeasure/ Letter of Displeasure	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.

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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14. 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 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 OFFERS 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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15. The applicant here was awarded the censure of 'Displeasure' of the Comdt CMM on 20.05.2019 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 Comdt Cat A Est 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 'Displeasure' awarded by the Comdt Cat A Est is **to be operative for the period as specified by awarding authority up to a maximum of ONE year 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'.

16. This would imply that if the applicant (Censure in May 2019) is being considered for a foreign assignment/important appointment in **2025** along with their batch mates, one of whom has been awarded a similar censure by a Cat A Comdt as per the new policy in Dec 2023, the censure of the applicant would still be operative as the applicant 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 Comdt Cat A Est is only one year. This, in our view is a travesty of injustice as the applicant and his 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.

17. Having heard both parties at length, and considering the gravity of the fact that the applicant lost his military identity card, the property of the Govt. entrusted to his care, we are of the opinion that the ends of justice would be met if the validity of the censure dated 20.05.2019 awarded to the applicant be only up to the date of this order. Necessary endorsements be made in the dossier of the applicants accordingly.

18. We, therefore, partially allow the OA and direct the following:

(a) The validity of the censure dated 20.05.2019 awarded to the applicant 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 applicant and other records at various HQs.

(c) 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.

19. No order as to costs.

20. 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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