

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

A..
OA 283/2015 with MA 1061/2017

Hav Jaswant Singh **Applicant**
VERSUS
Union of India and Ors. **Respondents**

For Applicant : Mr. Ravi Kumar, Advocate with Mr.
Sonu, proxy for
Ms. Archana Ramesh, Advocate
For Respondents : Dr. Vijendra Singh Mahndiyani, Advocate

CORAM
HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN P. M. HARIZ, MEMBER (A)

ORDER
25.07.2024

Vide our detailed order of even date we have dismissed the OA 283/2015. Learned counsel for the applicant makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

2. In view of the verdicts of the Hon'ble Supreme Court in *UIO & Ors vs Parashotam Dass* (Civil Appeal 447/2023) and in *Ex LAC Yogesh Pathania vs UIO & Ors* (I.A. No. 1/2016 in Civil Appeal Dy. No. 14214/2016), after hearing learned counsel for the applicant and on perusal of order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, the prayer for grant of leave to appeal stands declined.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

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

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ORDER

This application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant who is a retired Hav and is aggrieved on not being promoted to the rank of Nb Sub and further being denied extension of service. He has made the following prayers:

- (a) Issue directions to the Respondents to firstly quash and set aside the Central Vehicle Depot letter dated 28 Dec 2014 placed as Annexure A – 1 on the ground that the punishment of 'Reprimand' awarded against the applicant on 20 April 2011 and 15 April 2013 are black ink entries only in terms of Para 387 of

the Defence Services Regulations placed as Annexure A – 8 as also in the light of the Hon'ble Delhi High Court Judgment in WP(C) No 9297/2014 dated 23 Dec 2014 in Subedar Manik Kumar Maity Versus Union of India placed as Annexure A – 9.

(b) Issue directions to the Respondents to call for the records and quash the punishment dated 20 Apr 2011 and 15 Apr 2013 being legally unsustainable in the eyes of law and simultaneously grant promotion to the applicant to the rank of Naib Subedar as a consequential effect having qualified promotion cadre and other criteria in all aspects with an ante dated seniority with all back wages to meet the ends of equity, justice and fair play.

(c) Pass such other and further orders/directions to the Respondents for adequate compensation as may be deemed just and proper by the Hon'ble Armed Forces Tribunal in the attendant genuine circumstances of the case.

(d) In the interim, stay the AOC Records discharge order dated 11.02.2014.

Brief Facts of the Case

2. The applicant was enrolled in the Army Ordnance Corps (AOC) on 04.04.1991 and was promoted from time to time till the rank of Hav. It is the applicant's case that he had been awarded a 'Reprimand' on 28.04.2011 and 15.04.2013 and thus at the relevant time of promotion, he was denied promotion on discipline criteria on the premise that he had two "Red Ink" entries in his records in the last five years of his service.

3. As per the applicant, in 2011 while he was posted at 24 Field Ammunition Depot (FAD), he had been sent on temporary duty to HQ South Western Command at Jaipur. Whilst there, he had been detailed on guard duty, during which, the JCO-in-charge had made a false complaint that the applicant had been intoxicated and absent from his place of duty. He was, therefore, punished and awarded 'Reprimand' on 28.04.2011 by the Adm Officer, 24 FAD. With regard to the punishment in 2013, it is the applicant's case that while on duty at the unit Quarter Guard that another soldier had been intoxicated, and that soldier had made a false complaint against the applicant stating that the applicant had been intoxicated. He was

once again punished on 15.04.2013 and was awarded a 'Reprimand'.

4. It is also the applicant's case that he had attended the Hav to Nb Sub Promotion Cadre (HNS-550) from 10.03.2014 to 10.05.2014 but had failed in this Cadre. Thus, he repeated the Promotion Cadre (HNS-555) from 12.05.2014 to 12.07.2014 and had qualified in the Cadre. It is the applicant's case that though he had passed the promotion cadre, in the promotion consideration held in Sept 2014, he was not promoted to the rank of Nb Sub. He was then informed that he was ineligible for promotion on discipline criteria as he had two 'Red Ink' entries in the last five years. It is the applicant's case that he had been incorrectly held as being ineligible for promotion on disciplinary criteria, as he only had two 'Black Ink' and not two 'Red Ink' entries as intimated by the department. In the meanwhile, AOC Records vide their letter dated 11.12.2014, had issued the 'Discharge Order' for those who were to retire on Apr 2015 including the applicant. It is also the applicant's case that though he intimated his willingness for extension of service, he was not granted the two years extension from 01.05.2015 to 30.04.2017. It is also the case of the applicant that between 2014 – 2015, both he and his father

had submitted various applications regarding his promotion but these had not been acted upon by the authorities.

5. The applicant then submitted a statutory complaint dated 31.03.2015 with the prayer that the denial of promotion due to two 'Red Ink' entries in the last five years be set aside and that he be promoted to the rank of Nb Sub and also that any other order deemed appropriate be passed. Aggrieved by not being promoted and not being granted extension, the present OA has been filed.

Arguments by the Counsel for the Applicant

6. Adv Ms Archana Ramesh, the counsel for the applicant reiterated the details of the case and elaborated on the circumstances of the case leading to the award of 'Reprimand' in 2011 and 2013. She further stated that though the applicant had passed the promotion cadre in his second attempt, he had been denied promotion based on the disciplinary criteria as he had two 'Red Ink' Entries in the last five years. The counsel emphasised that though he had been actually awarded two 'Black Ink' entries, that too under dubious circumstances, the respondents vide their MA No.1061/2017 had placed the charge-sheets on record which

stated that the applicant had been awarded 'Severe Reprimand' on both the occasions, which were 'Red Ink' entries.

7. The counsel then stated that since this punishment made the applicant ineligible for promotion, the respondents should not have then detailed the applicant to attend the promotion cadre. She further added that when the results of the promotion consideration held in Sept 2014 were promulgated, the applicant's name was neither in the list of those who had been promoted, nor in the list of those who were found ineligible. She emphasised that had the applicant indeed been ineligible, his name should have been included in the second list.

8. The counsel further stated that even without waiting for the promotion consideration and well before the applicant attended the promotion cadre, his discharge order had been issued vide AOC Records letter dated 11.02.2014 stating that he would be discharged in Apr 2015.

9. Once again reiterating and emphasising that the applicant had been awarded only two 'Black Ink' entries, the counsel drew our attention to the Hon'ble Delhi High Court order dated 23.12.2011 in the case of **Subedar Manik Kumar Maity Vs. Union of India &**

Ors. (Annexure A-9) wherein the Court had held that since the JCO had been awarded a 'Reprimand' which was a 'Black Ink' entry, there was no prejudice caused, and that he was eligible to be considered for a posting on the UN Mission.

10. The counsel then relied upon the AFT (RB) Lucknow order dated 15.10.2015 in OA 131/2014, **Gunner (Washerman) Basant Kuamr Singh Vs. Union of India & Ors.**, wherein the petitioner, had a total of four 'Red Ink' entries for being intoxicated and a 5th 'Black Ink' entry, and had been discharged under the Army Rule 13 (3) (iii) (v) as being undesirable. The counsel emphasised that the AFT had quashed the discharge and re-instated the applicant as it found that due process had not been followed, and that proper consideration had not been given to the situation, and that the applicant had not been granted an opportunity to explain his position in the case. The counsel then elaborated upon the various issues upheld by the Tribunal in this case, and emphasised that in essence, the Tribunal had held that, intoxication indeed was not a serious offence especially when not on duty and considering that the Army itself had provisions for issue and purchase of liquor from the canteen.

11. The counsel concluded that the applicant's offence of being intoxicated should have been dealt as a 'Black Ink' Entry and that he should have been promoted in his turn. By the respondents denying him authorised promotion it had caused serious prejudice to the applicant.

Arguments by the Counsel for the Respondents

12. The counsel refuted the prayer of the applicant and emphasised that the entire arguments in the OA, the rejoinder and submissions of the counsel of the applicant were premised on the grossly incorrect assumption that the applicant had been awarded two 'Black Ink' entries and that the entries had been incorrectly endorsed as 'Red Ink' entries, resulting in the applicant being denied promotion based on discipline criteria.

13. The counsel then drew our attention to the two charge-sheets at Annexure R-3 of MA No.1061/2017 and elaborated the details in each of the charge-sheets for the offences on 25.04.2011 and 11.04.2013. The counsel demonstrated that on both occasions the applicant had been charged under the Army Act Section 48 for "Intoxication", and had been awarded 'Severe Reprimand' on both the occasions. He then drew our attention to the extract of Para 387

of Regulations for the Army (1987 Edition) and demonstrated that a 'Severe Reprimand' was a 'Red Ink' entry that was required to be made in the conduct sheet of a JCO/NCO.

14. The counsel then drew our attention to Army Act Section 80 and elaborated on the statutory powers of a CO to summarily punish a soldier other than a JCO/WO. He further elaborated that based on the charge which an individual is charged, the CO could award one or more punishment prescribed under this Act which at Sub-Para (g) includes 'Severe Reprimand'. The counsel then elaborated on the provisions of the Army Act Section 82 which limits the punishment under the Army Act Section 80 and in particular, drew our attention to the Army Act Section 82(5) which states that a 'Severe Reprimand' cannot be awarded to anyone below the rank of an NCO.

15. The counsel then drew our attention to the Army Act Section 48 and elaborated that any person who was subject to the Army Act and is found in a state of intoxication whether on duty or not, and when such an offence is committed by a person other than an officer, whether on active service or not on duty, he can be punished with imprisonment up to six months. He further added

that in the case of an officer, he is liable to be cashiered or suffer lesser punishment. The counsel then emphasised that in the case of the applicant, he could have been punished with imprisonment of up to six months. However, the CO can exercise his discretion and decide the quantum of punishment based on the circumstances of the case. Thus, in this case on both occasions, the applicant had only been awarded a 'Severe Reprimand'.

16. Referring to the assertion of the counsel for the applicant that if the applicant was ineligible for promotion on disciplinary grounds, that he should not have been detailed for the promotion cadre, the counsel stated that in the applicant's case he had failed in his first attempt and had successfully cleared the promotion cadre in the second attempt. The counsel then elaborated that as per the criteria for consideration for promotion it was mandatory for an NCO to have passed the Hav to Nb Sub promotion cadre to be eligible for consideration. He further added that at the relevant time when the applicant was detailed for the promotion cadre, it was only to ensure that the NCO has earned one of the mandatory pre requisites for consideration for promotion.

17. Further referring to Annexure R-IV in MA No.1061/2017, the counsel elaborated that a Hav can be promoted only if he fulfils various stipulated conditions including the condition that an NCO should not have more than two 'Red Ink' entries in the last five years of service and should not have incurred more than three 'Red Ink' entries in his entire service. The counsel then stated that the applicant was screened for his first consideration in Jun 2014 and had been found unfit for consideration, since at that time he had not passed the Hav to Nb Sub promotion cadre. Though the applicant subsequently passed the promotion cadre in Jul 2014, he could not be promoted as he did not meet the discipline criteria, since he had two 'Red Ink' entries in the last five years, one in 2011 and other in 2013.

18. Referring to the issue of discharge order for Apr 2015 issued vide AOC Records letter dated 11.02.2014 (Annexure A-2), the counsel elaborated that as a matter of routine, discharge orders were issued a year in advance so that an individual could complete the requisite documentation, and submit the documents a minimum of eight months in advance to facilitate the settlements of all dues and ensure smooth discharge as stipulated at Para 15 of the letter. He then added that in case an individual is promoted in the

intervening period, his discharge is accordingly cancelled. Thus, contrary to the assertion, the issue of discharge order was not an indication that the applicant was not eligible for promotion.

19. Referring to the assertion that the applicant had been unfairly denied extension of service, the counsel drew our attention to AG's Branch/PS-2 letter dated 20.09.2010 (Annexure R-VII) and stated that the grant of extension was governed by this policy letter and based on his consideration as per the laid down criteria at Appx A to this letter, the applicant had not been found fit for grant of extension on the prescribed discipline criteria.

20. Referring to the judgements relied upon by the counsel for the applicant, the counsel stated that the Hon'ble Delhi High Court order dated 23.12.2011 in the case of **Subedar Manik Kumar Maity** (supra) was of no help as that case pertained to a plea based on a 'Black Ink' entry which was distinctively different in facts and circumstances from that of the applicant's case who had two 'Red Ink' entries' in the relevant period. Further referring to the AFT (RB) Lucknow order dated 15.10.2015 (supra), the counsel emphasised that this case too was of no help to the applicant as the facts

and circumstances were distinctly different from the applicant's case.

21. The counsel concluded by emphasising that the applicant could not be promoted due to the laid down disciplinary criteria which debarred an NCO with two 'Red Ink' entries in the last five years of his service at the time of promotion.

Consideration of the Case

22. Having heard both parties the only issue to be adjudicated is whether the applicant had been fairly considered and was declared unfit for promotion as per the rules and regulations in vogue.

Entry in the Conduct Sheet

23. It is seen from the additional documents placed on record by the Respondents in MA No.1061/2017 that the applicant had a total of three 'Red Ink' entries in his entire service; in Nov 2003, Apr 2011 and Apr 2013. We proceed to examine the entries of Apr 2011 and Apr 2013 which are relevant to the case at hand. Contrary to the assertions by the applicant in the OA and the arguments by the counsel for the applicants, we have no hesitation in upholding that, based on the documents placed on record,

the applicant was awarded a 'Severe Reprimand' on both occasions in 2011 and 2013 for an offence under the Army Act Section 48 for 'Intoxication', which as per Para 387 of the Regulations of the Army (1987 Edition) is a 'Red Ink' entry. Both the charge sheets and Para 387 of the Regulations for the Army are reproduced below:

Charge Sheet -1 (25.04.2011)

FORM FOR USE AT SUMMARY TRIALS OF NCOS AND OTHER RANK UNDER SEC 80-82 OF THE ARMY ACT 1980

OFFENCE REPORT **24 Field Ammunition Depot**

Ser No _____
For week ending _____
Last report _____
SuEmitted _____

Charge against No **6932687Y** Rank **Hav** Trade **SHGD** Name **Jaswant Singh**

Place and date of offence	Offence	Plea	Name of witnesses	Punishment awarded	Sig rank & designation of officer by whom awarded & dt of award	Dt. of entry in conduct sheet	Remarks
Field on 25 Apr 11	<p><u>ARMY ACT Sec -48</u> <u>"INTOXICATION"</u> In that he, at jaipur on 25 Apr 11 at about 1800 hrs while on temp duty at HQ South West Comd (Ord), performing duty of Adm NCO at Sapta Shakti Open Air Auditorium Jaipur was found intoxicated.</p> <p>Pd of Open arrest : Nil Pay book S. No : 151</p>		JC- 727526H SUB SUDARSANAN M	"Severe Reprimand"	Sd/- (SF Chancel) Major Adm Officer 28 Apr 11		

Charge Sheet -2 (11.04.2013)

FORM FOR USE AT SUMMARY TRIALS OF NCOS AND OTHER RANK UNDER SEC 80-82 OF THE ARMY ACT 1980

OFFENCE REPORT 24 Field Ammunition Depot

Ser No 04

For week ending 15/4/13 to 21/4/13

Last report

Submitted 15/4/13

Charge against No 6932687Y Rank Hav Trade SHGD Name Jaswant Singh

Place and date of offence	Offence	Plea	Name of witnesses	Punishment awarded	Sig rank & designation of officer by whom awarded & dt of award	Dt of entry in conduct sheet	Remarks
Field on 11 Apr 13	<p><u>ARMY ACT Sec -48</u></p> <p><u>"INTOXICATION"</u></p> <p>In that he,</p> <p>at field on 11 Apr 13 at about 2230 hrs was found intoxicated at unit Kote after consuming liquor from unauthorised sources when checked by JC-729889L Nb Sub SHT Prakash Chand, JCO Adjt and No 6935680L CHM SHGD Mahesh Chand, CHM of the same unit.</p> <p>Pd of Open arrest : Nil Pay book S. No : 152</p>	GUILTY	JC-729889L Nb Sub SHT Prakash Chand No 6935680L CHM SHGD Mahesh Chand	Severe Reprimand	Sd/- (Vikrant Singh) Lt Col Adm Officer for Comdt 15 Apr 13		

Para 387 of Defence Services Regulations

387. Conduct Sheet Entries:-

(a) Entries will be made in the conduct sheets of officers in respect of all convictions by court-martial, criminal court or summary punishments awarded under Army Act Sections 83 or 84.

(b) The following entries will be made in the conduct sheets of JCOs, WOs and OR as **red ink entries**:—

- (i) Forfeiture of seniority of rank (JCOs and WOs only).
- (ii) Conviction by court-martial.
- (iii) Conviction by a civil court, except when a fine was the only punishment and the CO does not consider that a red ink entry should be made.
- (iv) Reduction of a NCO to a lower grade or to the ranks for an offence but not for inefficiency.
- (v) Deprivation of an appointment or of lance or acting rank, for an offence but not for inefficiency.
- (vi) **Severe reprimand** (JCOs, WOs and NCOs only).
- (vii) Imprisonment.
- (viii) Detention.
- (ix) Field punishment (on active service only).
- (x) Confinement to the lines exceeding fourteen days.
- (xi) Forfeiture of good service or good conduct pay.

(c) Black ink entries will be made in the conduct sheets of JCOs, WOs, and OR in respect of all punishments not included in the list of red ink entries, convictions by civil courts not meriting in the CO's opinion a red ink entry.

Statutory Provisions

24. The statutory provisions of summary punishments of PBOR other than JCO/WO are enshrined in the Army Act Section 80 and the limits of punishment under this Section are governed by the Army Act Section 81. Both the Sections are reproduced below:-

80. Punishment of persons other than officers, junior commissioned officers and warrant officers.—Subject to the provisions of section 81, a commanding officer or such other officer as is, with the consent of the Central Government, specified by ²[the Chief of the Army Staff], may, in the prescribed manner, proceed against a person subject to this Act other wise than as an officer, junior commissioned officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,-

- (a) imprisonment in military custody up to twenty-eight days;
- (b) detention up to twenty-eight days;
- (c) confinement to the lines up to twenty-eight days;
- (d) extra guards or duties;
- (e) deprivation of a position of the nature of an appointment or of corps or working pay, and in the case of non-commissioned officers, also deprivation of acting rank or reduction to a lower grade of pay;
- (f) forfeiture of good service and good conduct pay;
- (g) **severe reprimand or reprimand;**
- (h) fine up to fourteen days' pay in any one month;
- (i) penal deductions under clause (g) of section 91;

81. Limit of punishments under Section 80.

(1) Omitted

(2) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of the said section, the punishment specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

(3) When two or more of the punishments specified in the said clauses (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(4) The punishments specified in clauses ¹[(a), (b) and (c)] of section 80 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(5) The punishment specified in clause (g) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

25. On both occasions in 2011 and 2013, the applicant was charged with an offence under the Army Act Section 48 for 'Intoxication'. Under this Section, if the offence is committed by any person other than an officer, **whether on active service or not on duty**, the individual can be awarded up to six months imprisonment. The Section is reproduced below:-

48. Intoxication.-(1) Any person subject to this Act who is found in a state of intoxication, **whether on duty or not**, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is not an officer, be liable, subject to the provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when **not on active service or not on duty**, the period of imprisonment awarded shall not exceed six months.

Criteria for Promotion

26. Policy on Promotion. The criteria for promotion is laid down vide AG's Branch/PS-2 letter dated 10.12.1997 as amended from time to time. While these are the common promotion criteria, various Arms and Services are permitted to issue instructions specific to that Arm/ Service. The relevant portion of the AG's Branch/PS-2 letter pertaining to discipline criteria is reproduced below:-

*Adjutant General's Branch
Addl Dte Gen Pers Services
Army Headquarters
DHQ PO, New Delhi-110011*

10 Dec 97

B/33513/AG/PS2(c)

Headquarters

*Southern Command, Pune
Eastern Command, Calcutta
Western Command, Chandimandir
Central Command, Lucknow
Northern Command, C/o 56 APO
Army Trg Command, Shimla*

CRITERIA FOR PROMOTION – JCOs/NCOs

1. Promotion criteria in respect of JCOs and NCOs, laid down vide this HQ letter No. B/33513/AG/PS 2(c) dated 18 Jan 93 as amended from time to time has been reviewed and the revised criteria as given in succeeding paras has been laid down.

2. In addition to the provisions contained in AO 45/80 Army HQ letter No.A/16010/GS/MIS 2 dt 14 Mar 2003 (with Army HQ letter No. B/33513/AG/ PS (c) dated 18 Apr 2000) and SAO 8/S/78 the following criteria in regard to discipline, medical standards and ACRs will be adopted for the purpose of promotion to the ranks of Dfr/Hav and JCOs.

Discipline Criteria

3. (a) **An individual should not have more than three red ink entries (including recordable censure in the case of a Nh Sub) during the entire service and not more than one red ink entry in the last five years.** For promotion to the rank of Sub Maj there should be no red ink entry including recordable censure in the rank of JCO.

(b) A JCO/NCO who has been convicted for an offence mentioned in Appendix 'A' to this letter will be permanently debarred from further promotion.

(c) A JCO who has been awarded recordable censure/Red ink entry for any offence at Appendix 'B' to this letter will not be eligible for further promotion for a period of next three years from the date of the award of the recordable censure/ red ink entry.

(d) An NCO who has been awarded red ink entry for any offence at Appendix 'B' to this letter will not be eligible for further promotion for a period of next three years from the date of award of the red ink entry.

(e) In exception cases the stipulation as far as paras (a) to (d) above in respect of those individuals who have distinguished themselves in war or peace may be waived by the GOC-in-C Command, on the recommendation of the OIC Records.

(f) An individual will not be considered for promotion within one year of the award of red ink entry/ recordable censure, as the case may be.

(g) Black ink entries awarded to JCOs/NCOs for offences at Appendix "b" to this letter would not debar a JCO/an NCO from promotion.

xxx

xxx

xxx

xxx

27. When an Arm/Service issues specific instructions, the above-mentioned criteria are reiterated in their orders. In the case of the applicant, he was due for his first consideration in Jun 2014.

However, since he was unfit due to lack of Hav to Nb Sub promotion cadre and required discipline criteria, he was not eligible for promotion. The relevant issues promulgated in the AOC letter dated 10.06.2004 regarding those approved to be promoted in that consideration is reproduced below. Para 1, explicitly states that those found fit for promotion are to be promoted subject to fulfilling the laid down criteria. The discipline criteria are mentioned from 1(a) to 1(e).

FOR PERSONAL ATTENTION OF COMDT/CO UNIT "THIS PROMOTION ORDER
WILL NOT BE EFFECTED IF THE NCO IS INVOLVED IN ANY DISCP CASE OR
FOUND MEDICALLY UNFIT

Tele: 287228

REGD SDS/BY POST
AOC Records
PIN-900 453
C/o 56 APO
10 Jun 2014

31243/PO-14/Prom/CA-2

PROMOTION HAVILDAR TO NAIB SUBEDAR

1. Havildars mentioned at Appx 'A' to this letter are ordered to be promoted to the rank of Nb Sub wef dates shown against each, subject to fulfilling the conditions given below:-

(a) They are free from red ink entry for the last one year preceding the date of promotion

(b) They have not been awarded more than one red ink entry during last five years preceding the date of promotion

(c) They have not incurred more than three red ink entries during their entire service

(d) They are not involved in any disciplinary, vigilance or criminal case/placed under DV Ban

Branch/PS-2 letter dated 20.09.2010. All PBOR are to be screened for extension by a Screening Board to be held on Unit/Regiment/Corps/ Records Office basis as applicable, to assess the suitability of granting extension to those due for extension. The procedure and criteria for screening is laid down in Appx A of this letter. The discipline criteria for extension is that *an individual should not have more than two red ink entries (including recordable censure in the case of an Nb Sub/Sub) during the entire service and not more than one red ink entry in the last five years.* In the case of the applicant, he clearly does not meet the discipline criteria, as he has a total of three 'Red Ink' entries in his entire service.

Tel 35054
B/33098/AG/PS-2(c)

*Addi Dte Gen Pers Services
Adjutant General's Branch
Integrated as of MoD (Army)
New Delhi-110011
20 Sep 2010*

*Southern Command, Pune
Eastern Command, Kolkata
Western Command, Chandimandir
Central Command, Lucknow
Northern Command, clo 56 APO
Army Trg Command, Shimla
South Western Command, Jaipur
A&N Command, Port Blair
SFC, New Delhi*

**PROCEDURE AND CRITERIA FOR SCREENING OF PERSONNEL BELOW OFFICER
RANK (PBOR) FOR GRANT OF EXTENSION OF SERVICE
BY TWO YEARS**

1. Reference Govt of India, Min of Def letter No 14(3)/98/D(AG) dated 30 May 14(3)/96/0(AG) dated 03 Sep 1998, even number dated 18 Sep 98 and No. 14/3/98/D(AG) dated Apr 2002

2. The revised terms of enhanced service/tenure and age limits for retirement in respect PBOR were issued vide Govt of India, Min of Dief letters under reference. These limits are subject to screening board
3. The procedure and criteria for screening of PBOR will be regulated vide the guidelines as explained in the succeeding paragraphs.
4. **Screening.** All PBOR will be screened for extension by two years by the Screening Board to be held on Unit/Regiment/Corps/Records Office basis, as applicable to assess their suitability for extension. The procedure and criteria for screening is laid down in Appx A to this letter
5. **Retention of a PGOR during Extended Tenure.** The retention of a PROR during the extended tenure will be governed by the considerations as per Appx 's' to this letter
6. **Format** Format for screening is given appendix "C" to this letter
7. **Applicability** The revised policy will be made applicable with effect from 01 Apr 2011 to enable the dissemination to all concerned and preparatory work to be carried out by Offices and Line Dtes.
8. The HQ letter No. 33098//AG/PS-2(c) dated 21 Sep1998 as amended from time to time will stand superseded by the instructions/ provisions contained in this policy letter.

Sd/-
(Ravin Khosla)
Col
Dir AG PS-2
For Adjutant General

Appx A
(Refers to Army HQ letter No
8/33098/AG/PS-2(c)
dated Sep 2010

PROCEDURE & CRITERIA FOR SCREENING OF PBOR IN THE ARMY

1. **Aim.** To screen PBOR for the grant of extension by two years
2. **Criteria:** The following guiding principles will be adhered to while considering the gran of two years extension in age/service.
 - (a) **Willingness of the individual.** An individual will be deemed to be willing for 2 years extension in age/service unless he submits his unwillingness certificate two years before his retirement date, duly counter signed by OC unit

xxx
xxx
xxx
xxx
 - (e) **Discipline.** The individual should meet the discipline criteria as given below.

(i) An individual should not have more than two red ink entries (including recordable censure in the case of an Nb Sub/Sub) during the entire service and not more than one red ink entry in the last five years. However, for extension the rank of Sub Maj there should be no red ink entry including recordable censure in the rank of JCO.

(ii) An individual who has been convicted or awarded Red ink entry for an offence mentioned in the Annexure-I to Appx 'A' on the date of screening will not be eligible for extension and will be discharged in accordance with the existing rules on the subject. However, an individual who has been convicted or awarded Red ink entry for an offence mentioned in Annexure II to Appx "A" will not be eligible for extension in service for three years from the date of conviction or award of such red ink entry. Black ink entries will however not debar the PBOR for extension, if otherwise eligible. Award of upto 14 days Pay Fine and Confinement to Lines will not be a bar for extension of JCOs being black ink entry,

(iii) In exceptional cases, such as distinction achieved by an individual in war or peace, the GOC-in-C Command, on the recommendation of the OIC Records, may waive the stipulations given in Sub Para (i)&(ii) above.

Note: This criteria will be applicable to all Regt/Corps less DSC in whose regards orders issued separately vide letter No 8/33513/AG/P5-2(c) of 18 Jun 2009 will be applicable

xxx

xxx

xxx

4. **Scheduling of Screening.** Shall be regulated on attaining the following service limits:

<u>S No.</u>	<u>Rank</u>	<u>Serving in years</u>
(a)	Sub/Ris	26 th year
(b)	Nb Ris/Nb Sub	24 th year
(c)	Dfr/Hav	22 nd year
(d)	Nks	20 th year
(e)	L/Nk/Sepoy/TSLNk/TS Nk	16 th year/ 18 th year

xxx

xxx

xxx

Conclusion

29. In the light of the above consideration, it is clearly established that the applicant had a total of three 'Red Ink' entries in his entire service, of which two were in the last five years of service. Thus, as

per the promotion policy in vogue, the applicant is not eligible for promotion to the rank of Nb Sub as he does not meet the discipline criteria. The applicant has also not been granted two years extension as he did not meet the discipline criteria for extension as well. We, therefore, uphold the actions of the respondents in holding the applicant in-eligible for promotion and do not find any mala fide in their action.

30. Accordingly, this OA is dismissed.

31. No order as to costs.

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

Pronounced in open Court on this 25th day of July, 2024.

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

(JUSTICE ANU MALHOTRA)
MEMBER (J)

Neha