



*as given by recommending and approving authorities of the Army and Ministry of Defence.*

- (b) To summon the entire records, pertaining to Interim CR for the period from 01 July 2014 until 12 March 2015.*
- (c) To set aside the impugned Order Annexure 'A-1'.*
- (d) To expunge the entire assessment of the 10 from Interim CR initiated for the period from 01 July 2014 to 12 March 2015.*
- (e) To expunge the entire assessment of the SRO from Interim CR initiated for the period from 01 July 2014 to 12 March 2015, if inconsistent with the assessment of RO and Head of Service.*
- (f) To direct the Respondents to consider the Applicant as a fresh case alongwith 1984 batch with original benchmark as of AOC 1982 bath in No. 1 Selection Board scheduled for October 2016, if the instant OA is favourably decided.*
- (g) To direct the Respondents to declassify the result, earmark a vacancy and place the Applicant in appropriate appointment before the date of retirement on 30 November 2016, if the instant OA is favourably decided.*

***(h) To pass such other order(s) as may be deemed just and proper in the facts and circumstances of the present case.”***

### **BRIEF FACTS**

2. That the applicant was commissioned in the Army Ordnance Corps on 12.06.1982. At the time of filing of the OA, the applicant was due to retire on 30.11.2016 (now since retired). It is the case of the applicant that he has maintained an 'Outstanding' career profile during his service and due to his sustained dedication, devotion and hard work was promoted and posted in January 2011 as Brigadier Ordnance Services, HQ 16 Corps. On completion of the said tenure, the applicant was posted as DDG OS (Ops and Adm), IHQ of MoD (Army), New Delhi in October 2012 but was side-stepped and posted as Commandant, COD, Delhi Cantt and served there with effect from 07.04.2013 and relinquished such command on 12.03.2015 and while serving, as such, the channel of reporting pertaining to yearly assessment in Confidential Report comprised of the Additional Director General Ordnance Services (hereinafter referred to as ADG OS (CV)) as the IO, GOC Delhi Area as the RO, Master General of Ordnance

(hereinafter referred to as the MGOS IHQ of MoD (Army) as the SRO and the Head of Service being the Director General of Ordnance Services (hereinafter referred to as 'DGOS') at IHQ of MoD (Army).

3. It is the case of the applicant that Respondent No. 4 assumed charge as ADG OS (CV) in January 2014 and, therefore, pursuant thereto, he initiated two CRs as IO of the applicant and the first ACR due on 01.07.2014 was assessed as 'Outstanding' by Respondent No. 4. Thereafter, a second Interim CR covering the period from 01.07.2014 upto 12.03.2015 was placed for initiation before Respondent No.4 as the IO, which was also the cut-off CR for No.1 Selection Board scheduled for September 2015 to empanel suitable officers serving in the rank of Brigadiers for promotion to the next rank of Major General. However, according to the applicant certain differences on issues between them pertaining to personal administration of the latter and on certain other matters arose; that on 12.03.2015, the applicant moved on posting as Group Commander, NCC Group HQs, Guwahati w.e.f. 02.05.2015. The applicant had remained in Delhi for 51 days more as he was Presiding Officer of an

ongoing staff court of inquiry and the said CoI was finalised and submitted on 03.05.2015 vide movement order dated 02.05.2015. Hence, till that period, the impugned ICR was initiated by the Respondent No. 4.

4. The applicant submits that it is only on 30.05.2015, that Respondent No. 4 despatched the impugned ICR without endorsing copies of covering letter to higher formation and MS Staff of the next unit at Guwahati and that the extracts of the impugned ICR were received by the applicant on 16.06.2015; however, due to bias reporting, Respondent No. 4, as IO, has given '8' against the five qualities mentioned by him at Sl. No. 12 of impugned ICR, despite the fact that the same officer as IO has given a '9' in the previous Annual CR of the applicant, initiated just eight months ago, which is inconsistent to the assessment in Part II in fundamental essential qualities; that the SRO also based his technical assessment on the biased feedback of the IO. The applicant further stated that with a grievance that the biased and malice attitude of Respondent No. 4 could cause irreparable harm to the applicant prior to his consideration by No. 1 Selection Board in September 2015, the applicant sent a letter dated 30.06.2015 to Respondent

No.4 expressing his anguish on such detrimental and biased assessment which was considered as an afterthought vide reply dated 17.07.2015.

5. Aggrieved by this, the applicant filed a non-statutory complaint dated 07.07.2015 pertaining to the interim CR, which was pending when the applicant was screened on 11.09.2015 for No. 1 SB for promotion to the rank of Major General and the result of the said SB was declassified on 26.10.2015 wherein the applicant was not empanelled and three officers were considered for empanelment, the other two officers got empanelment against the two pro rata vacancies as were notified for AOC officers of 1982 batch. Brig SK Sharma placed at serial no.2 had fifty days of residual service on 11.09.2015, i.e. the date of assembly of No.1 Selection Board and 04 days of residual service on 26.10.2015, i.e. on the date of declassification of result of the said Board. The earliest vacancies for occupation by the empanelled officers were available only in February and March 2016; that the said officer retired from service on 31.10.2015 after just four days of declaration of the results and thus that vacancy could not be utilized within the same batch; however, the respondents

did not consider ensuing retirement of the aforesaid officer nor empanelled more than the number of vacancies so that the vacancy could have been filled up. That such illogical and random action on part of the respondents in respect of 1982 batch so as not to follow the precedent, has resulted into irreparable loss and grave prejudice to the applicant for no fault on his part.

6. The applicant filed a Statutory Complaint on 13.11.2015 aggrieved by the non-empanelment, which was pending and this fact was brought to the notice of the No. 1 SB when the applicant was screened as First Review Case on 15.03.2016; that the results of the said SB were declassified on 21.04.2016, wherein the applicant was again not empanelled for promotion to the rank of Maj Gen; the applicant withdrew the Statutory Complaint vide letter dated 29.09.2016; in the meantime, the Non-Statutory complaint dated 09.07.2015 filed by the applicant was rejected by the Chief of Army Staff (COAS) vide order dated 16.02.2016. Against this decision, the applicant filed an OA being O.A. No. 598/2016 before the Tribunal (PB) and the said OA was disposed of by the Tribunal with a direction to the applicant to

file Statutory Complaint within ten days and the competent authority was also directed to decide the same by a reasoned order within a period sixty days from that order. Pursuant to the direction of the Tribunal, the applicant filed a Statutory Complaint dated 05.06.2016 which was disposed of by the competent authority vide a detailed order dated 12.08.2016 (impugned herein) providing partial redressal to the applicant's grievances expunging certain remarks made in Para 12(b), 12(d) and 12(h) from the impugned ICR on the ground of inconsistency.

7. Thereafter, the applicant again filed an OA being O.A. No. 1017/2016 before the Tribunal (PB), and when that OA was listed on 06.09.2016, the respondents were directed for production of the order passed on the Statutory Complaint filed by the applicant on the next date of hearing fixed for 29.09.2016 (although the order was already passed on 12.08.2016). Therefore, the said order dated 12.08.2016 (impugned herein) was produced in the Tribunal on 29.09.2016 and the said OA was permitted to be withdrawn by the applicant with liberty to file afresh challenging the said

order dated 12.08.2016. The applicant then had withdrawn the Statutory Complaint dated 13.11.2015 filed earlier also.

8. As the applicant was due to retire from the army service on 30.11.2016 and also was due for screening by No.1 Selection Board, which was scheduled to meet in second/third week of October 2016 to empanel officers for promotion to the next rank of Maj Gen, the applicant filed the present OA seeking expunction of the entire alleged biased and arbitrary assessment of the IO as well as of the SRO, if inconsistent with the assessments of RO and Head of Service, in its entirety from the impugned ICR and also praying that he be considered as a fresh case alongwith 1984 batch, with original benchmark as of 1982 batch and a vacancy be reserved, if empanelled for promotion to the rank of Maj Gen.

9. The learned counsel for the applicant submitted and reiterated that Respondent No. 4 had made bias and unjustified assessment in the impugned ICR on account of certain differences, which arose on certain issues not related to the professional activities, and in gross violation of Para 131 of the AO, with a malafide intent did not ensure timely completion of assessment and submission of interim CR and

deliberately withheld the ICR till the applicant remained present in Delhi for 51 days; and the interim CR was withheld much beyond the laid down permissible limit of 30 days as specified in Para 130(c) of AO. The learned counsel further submitted that Respondent No. 4 purposely resorted to adopting the unfair procedure of communicating the extracts to the applicant by post without placing any justifiable reasons in the impugned ICR for exercising such an exception, which is in contravention to Note at page 3 of the CR and Para 129 of the AO. It has been further submitted on behalf of the applicant that the impugned ICR initiated by Respondent No.4 is biased and unfair in all respect as lacking objectivity and is also grossly inconsistent with the overall consistent outstanding career profile of the applicant.

10. The learned counsel further submitted that even though the unsubstantiated biased assessment displays drop in performance from "Outstanding" to "Above Average", Respondent No.4 refrained to endorse any advisory or adverse remark in the impugned ICR to facilitate any further improvement and overall development of the applicant; that Respondent No.4 has assessed the applicant as "Above

Average" in five qualities in Part II of the impugned ICR related to Personal and Demonstrated Performance, which assessment is at variance and mismatch with other qualities assessed therein and this aspect was not taken into consideration by the respondents while passing the impugned order dated 12.08.2016, thereby causing immense harm to the applicant's career.

11. The learned counsel submitted that Respondent No.4 assessed the applicant in the impugned ICR as "Above Average" in quality referred to in Para 12(b) of Part II i.e. "*motivation and creation of impact on his command in the face of adversities*", whereas in brief comments it has been assessed that "*the officer is persevering and shows resourcefulness in tackling unforeseen events effectively*", as also in Para 12(j), wherein the quality of "*boldness and resoluteness in the execution of his duties in the face of odds and difficulties*" has been assessed as outstanding; and thus the above average assessment by Respondent No. 4 was deliberate and incoherent and the competent authority failed to consider this aspect while passing the impugned order. The learned counsel added that Respondent No.4 assessed the

applicant as above average in qualities in Part II and made contrasting assessments wherein an above average quality of emotional stability under stress and strain, has been endorsed to accomplish tasks of qualities assessed as outstanding.

12. The learned counsel further submitted that the competent authority while passing the impugned order failed to consider that Respondent No.4 assessed the applicant as above average in quality referred to in Para 12(e) of Part II i.e. “understanding and appreciation of viewpoints of his subordinates, colleagues and superiors” in a preconceived mind and biased manner in as much as no subordinate, colleague and superior had ever raised any such issue during the entire service of the applicant except the differences which emerged as referred to in the DO letter of the applicant to Respondent No. 4 and forms the basis of such assessment. It has been further contended that in the intermittent period, no account/incident/document of any sort existed on record as being indicative of dip in performance as known to the applicant and such assessment of the IO needs scrutiny of the senior reporting officers, which may also be perused from the official records so produced, so as to substantiate the

assessment of the applicant from outstanding to above average grading. The learned counsel submitted that the box grading with the figurative assessment of '8' in the impugned ICR was not changed despite expunction of IO's assessment referred to in Para 12 (b), 12 (d) and 12 (h), which figurative assessment cannot remain stagnant but should have been upgraded after the said expunction.

13. The learned counsel further submitted that Respondent No.4 assessed the applicant as above average in the impugned ICR in quality referred to in Para 12(k) of Part II i.e. "physical fitness and mental alertness", which displayed deliberate disparity with quality referred to in Para 12(a) in which, 'administrative acumen in judicious utilization of human and material resources' has been assessed as 'Outstanding', as also in the pen picture wherein the applicant has been stated to be an energetic officer as showing resourcefulness in tackling unforeseen events effectively and such unjust assessment of physical fitness against comments of energetic officer and of mental alertness against comments of resourcefulness in tackling unforeseen events effectively, shows contradiction in the assessment made by Respondent

No.4, which fact was not taken into consideration while disposing of the statutory complaint and passing impugned order dated 12.08.2016. It has been contended on behalf of the applicant that the impugned ICR initiated in such an arbitrary, biased manner lacks fairness, objectivity and consistency in reporting, which had a cascading effect on an otherwise outstanding career profile of the applicant and thus, deserved an intervention of the Tribunal, in particular by Respondent No.3 for the purposes of scrutiny on all aspects inclusive of objectivity in reporting in terms of Para 135 of the AO.

14. The learned counsel for the applicant further submitted that the earliest vacancies for occupation by the empanelled officers were available only in February and March, 2016 and the officer who was empanelled for promotion (Brig SK Sharma) in No. 1 SB of October, 2015 retired on 31.10.2015 i.e. after four days of declaration of results on 26.10.2015; that this led to vacancy lapse which existed for the AOC officers of 1982 batch and was not utilized within the same batch due to non-availability of any other empanelled officer for the vacancy; that the respondents did not empanel the applicant

as an additional officer to cater for such contingency of retirement of the aforesaid officer from the empanelled list, which retirement details though are documented and known well in advance, have escaped their attention as this resulted into depriving of an opportunity to the applicant to enter the empanelled list, which adversely reflects on flawed career planning and management undertaken by the respondents pertaining to the individual as well as the organization, by vacant appointment and exceptional scheduling of the Selection Board. It has been further stated that the respondents discriminatorily and arbitrarily did not adhere to the past precedents pertaining to previous batches of 1979 and 1981 in respect of officers of Corps of Engineers, AOC as well as for the officers of command and staff streams, wherein number of officers approved were more than the number of vacancies notified.

15. Therefore, the learned counsel submits that grave injustice has been caused to the applicant by such biased, arbitrary, vindictive and inconsistent assessment in the impugned ICR by the IO, SRO and consideration of the same thereafter by the No.1 Selection Board thus leading to non-

empanelment, which biased assessments in the impugned ICR having dealt with partial redressal vide impugned Order dated 12.08.2016 serves no purpose and thus the impugned ICR deserves to be expunged completely and the impugned order be set aside.

16. On behalf of Respondents Nos. 1 to 3, detailed counter affidavit has been filed on 18.12.2016. These respondents have raised preliminary objections stating that the applicant had filed two OAs earlier being OA 598/2016 and OA 1017/2016, details of the disposal of these OAs have already been given in the facts and submissions made by the applicant. These respondents have made a table showing applicant's consideration in No. 1 SBs of Sep 2015 (Fresh), March 2016 (First Review) and October 2016 [Special Review (Fresh)], in which the applicant was non-empanelled in all the three charges. Thereafter, the respondents gave details of various complaints i.e. Statutory and Non-Statutory complaints filed with their fate.

17. The learned counsel for Respondents Nos. 1 to 3 submitted that in the reckonable profile considered by No. 1 SB (Fresh), the applicant had eight CRs and in the First

Review, he had nine CRs, respectively in the rank of Brig, and ten CRs in the rank of Col; that applicant's assessment in the impugned ICR for the period 07/14 – 03/15 was clearly 'Above Average'; that the statutory complaint dated 05.06.2016 filed by the applicant was examined in detail and it was found that the assessments made in the said impugned ICR were well-corroborated, performance based and technically valid except the three assessments of the IO in the said impugned ICR in Paras 12(b), 12(d) and 12(h) which were expunged by the Central Govt. on the ground of inconsistency. This decision of the competent administrative authority cannot be assailed in judicial review as there are no allegations against the administrative authorities. The respondents Nos. 1 to 3 submitted that the individual cannot choose which particular assessment has to be considered and the complete CR has to be considered while making assessment.

18. It has further been submitted on behalf of Respondents Nos. 1 to 3 that the pendency of the complaints does not result into delay in conduct of a Selection Board nor the Board is informed about the pendency of any complaint of any officer in the agenda and grant of redressal in the pending complaint

results in corresponding Special Review consideration(s) where there is any change in the reckonable profile of the officer. Referring to Military Secretary's Branch Policy 32666/P/MS5B dated 22.06.1989, the respondents contended that there is no bar in consideration of an officer by SB when due because of pendency of the complaint. It was submitted that the cut-off CR for the No 1 Selection Board of Sep 2015 where the applicant was considered as a 'Fresh case' of 1982 Batch was June 2015; for the No.1 Selection Board held in Mar 2016 where the applicant was considered as 'First Review' 1982 Batch was December 2015; that the impugned ICR for the period upto Mar 2015 formed the cut off CR for fresh consideration where after the applicant earned another CR for the period 07/15-12/15, which was the cut-off CR when considered as First Review; and, therefore, the applicant's allegations are baseless and ill motivated against the official respondents. It was submitted that the Statutory Complaint of the applicant was considered in detail and was disposed of by a detailed reasoned order dated 12.08.2016; that the Central Govt being the competent authority, reconsidered the Order dated 12.08.2016 and on 16.09.2016

post such re-examination reiterated the decision dated 12.08.2016, which was accordingly communicated to the applicant vide letter dated 27.09.2016 and thus the allegation of intentional withholding or delay are false and baseless.

19. The respondents further submitted that the applicant relinquished appointment and it was correct on the part of the respondents to have relied upon Para 130 of the AO 45/2001/MS to communicate the open portion of the assessment by letter to the applicant and thus no prejudice was caused to the applicant. The respondents further stated that the applicant was assessed 'Above Average' by Respondent No 4 with complementary pen-picture which proves that the assessment is based on the demonstrated performance during the reporting period; and the applicant does not have any fundamental or enforceable right that since he knows the Reviewing Officer and Head of Service he is to be assessed only as Outstanding and that an 'Above Average' assessment is not a drop in performance as per extant rules nor was there any necessity to endorse any advisory or adverse remark. It has been submitted that the IO of CR is expected to reflect the demonstrated performance of the ratee truthfully

and objectively and the impugned CR bears testimony of such duties being performed by Respondent No 4. That, the Central Government found the impugned CR to be objective, well balanced and performance based with no indication of any bias. The learned counsel submitted that the allegations of the applicant are baseless and false and thus prayed for dismissal of the OA.

20. Respondent No. 4 also filed his reply affidavit on 25.05.2017 and submitted that, as an officer with 35 yrs of military service, he is fully aware of his responsibilities and moral obligation towards subordinates in safeguarding their-career interest without any malafides, biases and vindictiveness; that he is also aware of his responsibility to ensure a correct balance by arresting the 'inflationary trends' in CRs through objective reporting based on an officer's performance during the reporting year; that there are innumerable instances, wherein the performance of an officer varies during his service career based on his employability, job profile, training and specialisation; thus an officer being graded as 'Outstanding' in previous years cannot claim to be graded 'Outstanding' as a 'Right' if he or she has not performed

in an outstanding manner during the reporting year. Respondent No. 4 went on to further submit that in the instant case, the applicant was graded by the answering respondent himself as 'Outstanding' in his CR covering period from 06.01.2014 to 30.06.2014, however, during his CR covering pd from 01.07.2014 to 12.03.2015, he has been graded as 'Above Average' purely based on his performance on ground without any biases, malafides or adverse remarks and thus he, being reporting officer, has been absolutely impartial in his reporting on the officer and the allegations made by the applicant need no consideration.

21. Respondent No. 4, with regard to the allegation of delay in initiation of CR, submitted that there has been a delay of approx. 70 days in initiating the CR of the applicant and this delay was primarily due to exigencies of service, heavy workload due to the appointment held and extensive touring since three Maj CODs and four OSS were placed directly under the answering respondent which were located in different parts of the country. He further submitted that not only the ACR of the applicant was delayed, perceived as being an isolated case, but also ACRs of other officers, named therein,

initiated by answering respondent during the same period got delayed, and hence delay in initiation of CR cannot be attributed to any biased or vindictive motive since the applicant was assessed as 'Above Average'.

22. Respondent No. 4 further submitted that after assuming the appointment as ADG OS (CV), the applicant openly flaunted his connections with the GOC, HQ Delhi Area, under whom he had served in HQ 16 Corps as his Col GS(SD & WE); that his leaning towards HQ Delhi Area was so strong that the officer was rarely available to carry out the tech task assigned to the depot; the applicant did not pay adequate attention towards the tech functioning of the depot during the reporting period; that the applicant in order to please the GOC, totally reneged on the task assigned to him, since the focus of the officer was towards the Adm side.

23. Respondent No. 4 made an averment that the applicant, as a Major, was tried on disciplinary grounds at COD Kanpur for manhandling a superior officer, however, he managed to get scot-free. The respondent submitted that there were no personal differences between him and the applicant, pertaining to personnel administration and throughout his

tenure as ADG OS (CV) neither asked any favour nor accepted any personnel administrative support from the applicant and it was the applicant that he called him up offering personal administrative support from COD Delhi Cantt., however, he refused to accept any administrative support from the applicant.

24. In his rejoinder to the reply of Respondent No. 4, the applicant reiterated the facts and circumstances and incidents already submitted and vehemently denied the averments and allegations made on the part of the respondents and submitted that Respondent No. 4 failed to give any evidence or reasoning for his submissions made.

### **ANALYSIS**

25. We have heard both the learned counsel for the parties and the submissions made by them. We have also perused all the documents/promotion policies submitted on behalf of the parties.

26. The main issue before us is the impugned ICR of the applicant for the period with effect from 01.07.2014 to 12.03.2015 which according to the applicant has been written

in a biased manner by his IO and the SRO and the same be expunged with consequential benefits.

27. The applicant had filed a Non-Statutory Complaint dated 09.07.2015 against the impugned ICR dated 07/2014 – 03/2015. The same was duly examined by the AHQ and rejected by the COAS on 05.02.2016. The applicant thereafter had filed a Statutory Complaint against his non-empanelment to the rank of Maj General by the No. 1 SB on 13.11.2015 but on 29.09.2016, the applicant withdrew the said Statutory Complaint. The applicant in the interim made a Statutory Complaint dated 05.06.2016 against the impugned ICR for the period 07/2014 – 03/2015 which was received at AHQ (MS branch) on 13.06.2016. The Statutory Complaint of the applicant was processed and the Central Govt. gave partial relief to the applicant wherein it was directed to expunge the '8s' given by the IO in Paras 12(b), 12(d) and 12(h) in the impugned ACR.

28. The applicant thereafter through the present OA has prayed to expunge the entire assessment of the IO in the impugned ICR for the period 01.07.2014 to 12.03.2015 and also to expunge entire assessment of the SRO from the

impugned ICR (01/07/2014 to 12/03/2015) if inconsistent with the assessment of RO & Head of Service.

29. We have gone through the ACR dossiers, Master Data Sheet, and all files dealing with the Non-Statutory and Statutory Complaint of the applicant. We have also examined the impugned ICR of the applicant. Out of the 11 Personal Qualities (PQs) & Demonstrated Performance Variables (DPVs), the IO had awarded '9' points for five qualities which in turn was modified by the MoD wherein three qualities, namely, '(b) Motivation and creation of impact on his command in the face of adversities'; '(d) Emotional stability under stress and strain' and '(h) Integrity, moral strength and intellectual honesty' in which the IO had awarded '8' points were expunged by the order of the MoD vide its letter A/4550/41/2016/SC/MSA/80/SC/16 dated 12.08.2016.

30. The applicant was box-graded **8, 9, 8 and 9** by the IO, RO, SRO and Head of Arm/Service, respectively in the impugned ICR. The applicant was assessed a flat '8' point by the IO in the Qualities to Assess Potential (QsAP), which are not disclosed to ratee in which the IO awarded him '8' points

in all the five QsAP where the RO and the SRO had given a healthy mix of '9' and '8' points in the QsAP to the applicant.

31. It is also pertinent to note that the RO, while endorsing the impugned ICR of the applicant, has specifically mentioned certain remarks in the pen-picture of the applicant. The concerned extract of the pen-picture of the applicant by RO reads as follows :

***"\*I am not in agreement with figurative assessment given by IO in Motivation, Emotional stability & Integrity, Moral strength & intellectual honesty as well as block grading (should be 'box grading') given and QAP. The IO has been unduly harsh and biased.***

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***His figurative assessment should be expunged, since he has not indicated to me earlier that he found ratee wanting in performance considering he had graded him a box 9 in previous CR and found his performance & rated him "Outstanding" – No depreciation in performance was informed to me either orally or in writing. The report by IO is therefore biased, with malice & prejudice & should be set aside.***

**Sd/-**

**Lt GEN S. MITRA, PVSM, AVSM, SM, VSM (Retd)  
18 Aug'15**

32. The Respondent No. 4 (the IO of the applicant) in the Counter Affidavit filed by him, has brought out certain past incidences of the applicant (when the applicant was a Major and involved in a disciplinary case). The IO of the applicant by bringing out such an incidence which happened a long time ago in the career of the applicant gives an impression of being biased against the applicant in endorsing the impugned ICR of the applicant. The same is corroborated by the remarks of the RO in the pen-picture written by him in the impugned ICR as brought out hereinabove in Para 39. Moreover, giving 8 marks in all the five QsAP by the IO, whereas RO and SRO had given a healthy mix of '8s' and '9s' in the QsAP also fortifies the impression that the IO has written the impugned ICR in a biased manner.

33. In so far as the SRO is concerned, the marks awarded by the SRO and his pen-picture are well collaborated and does not merit any interference.

34. Keeping in view the above, it is directed that the entire portion of the IO in the impugned ICR for the period 01.07.2014 to 12.03.2015 be expunged. The applicant, thereafter, be considered as Special Review case by No. 1

Selection Board based on the cut-off marks of the No. 1 SB held on 12.09.2015. The applicant, if found within the merit, be notionally promoted to the rank of Major General as the applicant is already retired and be given all consequential benefits. The respondents are further directed to comply with the above directions within a period of three months from the date of receipt of a copy of this order.

35. Accordingly, O.A. No. 1291 of 2016 stands disposed of in terms of the above. There is no order as to costs.

Pronounced in open Court on this 28<sup>th</sup> day of October, 2025.

**[JUSTICE RAJENDRA MENON]  
CHAIRPERSON**

**[REAR ADMIRAL DHIREN VIG]  
MEMBER (A)**

/ng/