

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

O.A. No. 1365 of 2023

In the matter of :

CMDE Amol M Sabnis, VSM

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicants : Ms. Rhea Verma, Advocate

For Respondents : Mr. Karan Singh Bhati, Sr. CGSC

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R

Invoking the jurisdiction of the Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 (hereinafter referred to as 'AFT Act'), the applicant has filed this OA and the reliefs claimed in Para 8 thereof read as under:

"(i) Quash the impugned order dated 26.05.2022 bearing No.RS/8653/ROG/OA&R/21/08/SC/N/2021-ROG/STAT whereby, the Applicant's statutory petition complaint dated 30.07.2021 was rejected on grounds that are arbitrary, vague and unsubstantiated.

- (ii) *Direct the Respondents to retain the original grading given to the Applicant by the IO and RO during his tenure in SPS, as endorsed by higher authorities having direct functional relationship with the Applicant and to consider him afresh for the post of Rear Admiral by holding a special promotion board and if found fit, grant him all consequential benefits by promoting him to the rank of Rear Admiral from the date his batchmates have been promoted.*
- (iii) *Quash the (un-communicated) promotion board proceedings of the Applicant to the rank of Rear Admiral that took place in Promotion Board "PB 1A" whereby the Applicant could not make the grade to the rank of Rear Admiral and against the illegal PARBing or moderation of his CRs by CNS/NSRO for the period 2011-2014 while the Applicant was posted as in SPS;*
- (iv) *Pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case.*

2. The facts of this case, in brief, are that the applicant was commissioned into the Indian Navy as an Acting Sub-Lieutenant in 1989. Thereafter, he was promoted to the rank of Lieutenant in 1991. The applicant was promoted to the rank of Lt Cdr on 01.07.1999; Cdr on 16.12.2004 and Capt on 26.07.2010 and thereafter on 01.08.2015, the applicant was promoted to the rank of Cmde. It is stated that in October, 2011, the applicant was appointed as Director, Strategic Programme Staff (SPS), NSCS under the Prime Minister's Office and that vide letter No. SPS ID SPS/1002/2011/Staff dated 26.01.2012 issued to the Chief of Naval Staff, it was clarified that the assessment of CNS/NSRO was to be dispensed with while rendering CRs of officers of Indian Navy serving in SPS.

3. The applicant was awarded 'Vishisht Seva Medal' (VSM) on 26.01.2014 in recognition of his distinguished service. As stated in the petition, the Executive Council of Nuclear Command Authority in its meeting held on 16.04.2014 decided that the appointment of officers in the SPS would be treated as a 'Special Assignment' and the ACR marks awarded

to such officers would not be subject to review at the Service HQ.

4. It is the case of the applicant that in 2019, Promotion Board 'PB 1A' was convened for consideration of promotion to the rank of RAdm, however, the applicant's name was not recommended. The applicant thereafter submitted a representation dated 07.11.2020 against non-selection to the Flag rank by Promotion Board (PB 1A(X)/19&20), which was disposed of by the respondents vide order dated 13.04.2021 stating that his non-selection was solely due to his lower Overall Order of Merit (OOM). The applicant then preferred Statutory Complaint dated 30.07.2021 challenging his non-selection to the Flag rank by PB 1A(X)/19&20, which was rejected by the respondents vide order dated 26.05.2022 (impugned herein). Aggrieved by the same, the applicant has filed the present OA.

5. The learned counsel for the applicant submitted that the impugned order dated 26.05.2022 rejecting the Statutory Complaint of the applicant is arbitrary, unsustainable and has no substance; that the respondents failed to adhere to the mandate of letter No. SPS ID SPS/1002/2011/Staff dated

26.01.2012 issued to the CNS whereby assessment by CNS/NSRO was dispensed with while rendering CRs of officers of Indian Navy serving in SPS; that the respondents ignored the provisions of Corrigendum No. 1 dated 01.01.2000 (NI 1/2000) to Navy Instructions 20/90 pertaining to Chapter 25 of the Regulations for the Navy Part-I, 1965 (Non-statutory), wherein Para 15(2) stipulates that review or moderation of the reports of Naval Officers of the rank of Captain and above, and moderation of their gradings may be undertaken by the CNS only when CNS only is the Senior Reviewing Officer (SRO) or Next Senior Reviewing Officer (NSRO), when in the present case, during the applicant's SPS tenure (2011-14), the assessments by CNS/NSRO was dispensed with during the applicant's SPS tenure (mandated vide letter dated 26.01.2012), where the applicant's CRs were written by the officers/authority having a direct functional relationship with the applicant and supervised his performance during those years and thus any moderation or downward review of the gradings undertaken by the CNS/NSRO during that tenure in SPS is without authority, contrary to procedure and unsustainable in law and that the CRs of the applicant for the

years 2011-2014 endorsed by the higher authorities including NSA were unnecessarily and unreasonably moderated downward by the CNS adversely affecting the CR gradings of the applicant which resulted in the applicant's non-empanelment to the Flat rank promotion. In support of this, the learned counsel referred to an order of the Tribunal in **Gp Captain TM Rao Vs. Union of India & Ors. [2012 SCC Online AFT 66]** and submitted that the said action had a demoralising and discouraging effect.

6. The learned counsel further submitted that the respondents committed an error and failed to implement the Executive Council of NCA decision dated 16.04.2014 in its letter and spirit, which directed that appointments of officers in SPS be treated as 'Special Assignment' and that the promotional prospects of such officers be protected and that the downgrading of the CRs by CNS/NSRO for the period 2011-14 when the applicant was in tenanted SPS tenure placed the applicant at a disadvantageous position viz a viz his batchmates who continued to serve in Indian Navy. It has been further submitted that during his SPS tenure, the applicant's Performance and Qualities (PQ) was assessed on

qualitative basis from 'Average to Exceptionally outstanding' and that the IO and RO were not to carry out numerical assessments of the PQ of the applicant. It has been further submitted that the CNS/NSRO or anyone outside the SPS having no knowledge of the applicant's duties or performance in the SPS, could not have made a fair evaluation and thus the manner of moderation assessment undertaken by CNS/NSRO is arbitrary and without application of mind; and that the respondents committed grave error in not according due weightage to the qualitative assessments made by the Chief, SPS (as IO) and the NSA (as the RO), whose evaluation was based on direct knowledge of the applicant's conduct and performance and that the conversion of their qualitative assessments into numerical gradings by the CNS was contrary to the directions of SPS vide letter dated 26.01.2012 impaired the fairness of the process.

7. The learned counsel referring to the judgment of the Hon'ble Supreme Court in **Badrinath Vs. Govt of Tamil Nadu [(2000) 8 SCC 395]** submitted that the under Article 16 of the Constitution, the right to be considered for promotion is a fundamental right and such consideration must be fair, just

and in accordance with the principles governing service jurisprudence.

8. The learned counsel further highlighted the applicant's exemplary professional record and achievements along with the following achievements :

- (a) Secured full 12 months' seniority on completion of his Sub Lt Technical Course.
- (b) Stood second in the Ship Diver Officer Course in 1993.
- (c) Stood third in the Long Gunnery and Missile Course in 1995.
- (d) Participated in Operation Cactus, Operation Tasha, Operation Vijay and Operation Parakram.
- (e) Was conferred Commendation by the Flag Officer Commanding-in-Chief Western Naval Command in 2000.
- (f) Was conferred Commendation by the Chief of Naval Staff in 2005.
- (g) Was awarded the Vishisht Seva Medal (VSM) in 2014.

9. The learned counsel submitted that the applicant has served with utmost integrity which is reflected from his service record, commendation and various prestigious postings/appointments and the impugned order is being arbitrary and contrary to procedural fairness adversely affecting the career progress of the applicant. The learned counsel for the respondents prayed that the OA may be allowed.

10. The respondents have filed detailed Counter Affidavit on 20.05.2024 and submitted that the applicant belonging to SLY 2010A was considered for promotion to the rank of Rear Admiral (X/GS) by the Flag Board held on 25.09.2019 as 'First Look' case, as R-1 (Second Look) by the Flag Board held on 17.08.2020 and as R-2 (Third Look) by the Flag Board held on 31.05.2021. The Promotion Board recommended six officers in 2019, nine officers in 2020 and nine officers in 2021; however, the applicant could not be empanelled for promotion on any of the three occasions due to being at lower in merit than the selected officers.

11. Pursuant to his non-selection for promotion to the rank of Rear Admiral, the applicant preferred first Redressal of

Grievance (ROG) on 07.11.2020. The said ROG was examined by the Personnel Branch of Naval Headquarters and thereafter, referred to Redressal and Complaint Advisory Board (RACAB) for independent review; that after a detailed consideration, the ROG was rejected by RACAB being devoid of merit. The applicant was informed of the decision vide Note No. RS/8653/ROG/OA&R/21 dated 13.04.2021. The main issue raised by the applicant pertained to the moderation of his CRs rendered during his tenure with Strategic Programme Staff (SPS), NSCS. It was clarified that the CNS had reviewed and moderated the CRs of the applicant in accordance with Regulation NI 1/2000 dated 01.01.2000. This reply was based on "Corrigendum No.1" dated 01.01.2000 (NI 1/2000) to Navy Instructions 20/90 which governs Chapter 25, Regulations for the Navy Part-I, 1965 (Non-Statutory), wherein Para 15(2) of the Regulation specifically provides for a review and moderation of reports of all Naval Officers of the Rank of Captain and above by the Chief of the Naval Staff (CNS) as Senior Reviewing Officer / Next Senior Reviewing Officer.

12. The learned counsel for the respondents submitted that the authority of the CNS to undertake moderation of the ACRs

of Captains and above has been established/upheld by the Hon'ble High Court of Delhi in the matter of **Commodore Ravindranathan Vs Uoi [2008 SCC Online DEL 356]** and similarly, in the matter of **Rear Admiral Rakesh Pandit Vs. UOI & Ors. [OA No. 285/2013]**, the Tribunal (PB), New Delhi has reiterated the same view; that the Hon'ble Apex Court in the matter of **Commodore P.K. Bannerjee Vs. UOI & Ors [(2018) 4 SCC 355]** further affirmed that the CNS is competent to undertake moderation of grades and will undertake a Performance Appraisal Review Board (PARB).

13. The learned counsel further submitted that subsequently the applicant preferred a second ROG dated 30.07.2021 expressing dissatisfaction with the earlier RoG and requesting the matter be forwarded to Central Govt. and the said representation was duly forwarded to MoD/DMA and after thorough examination of all relevant facts, rules and policies, the said representation was disposed of by MoD/DMA vide order dated 26.05.2022.

14. The learned counsel referred to letter No. SPS ID SPS/1002/2011/Staff dated 26.01.2012 and to a decision of the Executive Council dated 16.04.2014 and submitted that

neither of the above communication have been annexed to the OA. It was been submitted that Promotion Boards of all the eligible officers have been conducted strictly in accordance with the relevant orders, rules and policies issued by the Naval Headquarters.

15. The learned counsel submitted that the impugned order of MoD/DMA dated 26.05.2022 was issued after considering all aspects of the applicant's representation along with the recommendations of the Naval HQs and RACAB and there is no arbitrariness and unreasonableness in the order as alleged by the applicant. The learned counsel submitted that the applicant's CRs were rendered by the IO and RO in Form No.IN 475(E) of NO (Spl) 05/05 applicable to officers posted to civil or quasi-military organizations; that the IO and RO assessed the applicant's performance using qualitative gradations as 'Poor, Below Average/Above Average/Good/Outstanding and Exceptionally Outstanding' without assigning numerical marks; was further submitted that as per 'Corrigendum No. 1' dated 01.01.2000 (NI 1/2000), the CNS subsequently assigned corresponding numerical gradings in his capacity as SRO/NSRO, as authorised under Para 15(2) of the Regulations

for the Navy Part-1 1965 (Non-Statutory). Therefore, the applicant's Non-selection was purely on account his lower inter-se merit vis-à-vis the selected officers and not due to any irregularity in moderation of CRs, as alleged by the applicant. It is further stated that the factual matrix of the case of **Gp Captain TM Rao Vs Uol and Ors** is not applicable to the instant case as the applicant has not been posted for a very specific project and his achievements and contribution cannot be construed to be of superior quality than that of his peers and diminish the achievements of other officers and that the CNS, as head of the organisation, has the prerogative to assess and moderate the performance of every officer uniformly based on their past profiles and performance, pen pictures and achievements recoded given by superior officers in the CR and moderates the ACRs as per norms applicable for Indian Navy in accordance with NI 01/2000; and the achievement and contributions of the applicant were taken into consideration but the same does not warrant special treatment *qua* his peers.

16. The learned counsel submitted that the applicant being a Naval Officer is governed by the rules & regulations

applicable to all Naval officers and his posting to SPS does not entitle him to seek special exemption from rules and regulations and policies. The applicant's non-empanelment is based on merit and comparative assessment and no procedural irregularity has been caused. The learned counsel for the respondents submitted that the OA deserves to be dismissed.

ANALYSIS

17. We have heard the submissions made by the parties and have also perused the records produced before us.

18. The applicant was considered for promotion to the rank of Rear Admiral in the Promotion Board-2019 and 2020 and was not empanelled in 2019 and 2020. The applicant thereafter filed a representation/RoG dated 07.11.2020 against non-selection to the Flag rank by Promotion Board (PB 1A(X)/19&20) which was examined by the Naval HQ and also by RACAB on 11.02.2021 for an independent examination of the issues raised therein. The RACAB rejected the representation of the applicant and the applicant was informed of the same vide Naval HQ order dated 13.04.2021.

20. Thereafter, the applicant preferred a second RoG dated 30.07.2021 and requested the same to be forwarded to the MoD/DMA as he was not satisfied with the reply of the Naval HQ vide order dated 13.04.2021. The MoD/DMA rejected the said RoG of the applicant vide its order dated 26.05.2022. Feeling aggrieved by the same and for reviving of merit, the applicant had thereafter filed the present OA.

19. The main issue raised by the applicant in the OA is that he was posted in the Strategic Programme Staff (SPS)/NSCS, wherein his ACR for 2011-2014 could not have been reviewed by the CNS as SRO/NSRO as he was posted for a 'Special Assignment' in SPS and his report were not to be moderated by the CNS as SRO/NSRO. The applicant also submitted that the Executive Council of Nuclear Command Authority of India had issued directions on 16.04.2014 to the effect that the ACR of the officers posted in SPS would not be reviewed by the Naval HQ. The applicant also submitted that the SPS vide its communication dated 26.01.2012 have specifically prohibited the Naval HQ to review any ACR of the officers posted in SPS. The applicant also argued that the ACR for 2011-2014 were written by the IO and RO in qualitative manner and its

conversion to numerical gradings by Naval HQ has been done in an arbitrary and unjust manner.

20. The first issue is about the initiation of ACR of officers who are posted outside the military domain in a civil organisation/quasi-military organisation and SPS is also covered under this domain. The ACR form for initiating report (CR) of such officers is on Form No. IN 475-E as per Navy Order (Spl) 05/05. The said ACR form (IN 475-E) in its current format does not allow the IO or the RO to give numerical gradings and they are expected to fill-up the ACR form judging the officers in 10 Qualities (Attributes), which are as under :

S No.	Attributes
(i)	Performance of duties in the appointment
(ii)	Ingenuity and Initiative
(iii)	Grasp, Analytical and Planning ability
(iv)	Written and Oral Communication skill
(v)	Man management and motivating ability
(vi)	Ability to attend to his tasks with speed, reliability and decisiveness
(vii)	Professional Knowledge
(viii)	Tact, Team-spirit and Co-operation
(ix)	Judgement and Commonsense
(x)	Personal habits and physical fitness

Further, the IO and the RO are expected to assess the performance of the officers qua these qualities as per Navy Order (Spl) 05/05 and are required to rate them as under:

RATING	PQ
Exceptionally Outstanding	9
Outstanding	8
Above Average	7
High Average	6
Average	5
Low Average	4
Blow Average	3
Poor	2
Very Poor	1

The IO and the RO are also expected to fill-up pen-picture part of the ACR form (IN 475-E). The ACR is thereafter forwarded to Naval HQ wherein the CNS, as SRO/NSRO, assesses the officers posted in Civil/Quasi-Military establishment and taking into consideration the qualitative assessments of the IO and the RO and the pen-picture written by the IO and the RO as well as the overall profile of the officers and their past performance when the officers were posted in Naval HQ billets finally gives numerical grading as SRO/NSRO. This is done as the merit list generated for deciding the Overall Order of Merit (OOM) of the officers is based on numerical gradings only and hence it is necessary for the CNS, as SRO/NSRO, to grade the officers in numerical grading format.

21. The applicant has earned six ACRs as the Strategic Programme Staff (SPS), NSCS; all the six ACRs earned by the applicant in the SPS have been perused by us. The details of

the numerical gradings given by the CNS as SRO/NSRO in all the six ACRs (2011 to 2015) of the applicant are tabulated below :

(a) ACRs for the period from Oct 2011 to May, 2013 :

Attributes	Period of ACR (1)			Period of ACR (2)			Period of ACR (3)		
	07.10.2011 - 29.02.2012	IO	RO	01.03.2012 - 03.12.2012	IO	RO	01.01.2013 - 31.05.2013	IO	RO
Performance of duties in the appointment	EO		Corresponding numerical assessment 7.7/7.8	Exceptionally Outstanding (EO)	O	Concur. 7.8/7.8	Exceptionally Outstanding		7.8/7.8
Ingenuity and Initiative	Outstanding (O)			Outstanding	EO		Outstanding		
Grasp, Analytical and Planning ability	EO			EO	EO		Exceptionally Outstanding		
Written and Oral Communication skill	O			Outstanding	O		Exceptionally Outstanding		
Man management and motivating ability	O			Outstanding	O		Outstanding		
Ability to attend to his tasks with speed, reliability and decisiveness	EO			EO	EO		Exceptionally Outstanding		
Professional Knowledge	EO			EO	EO		Outstanding		
Tact, Team-spirit and Co-operation	O			Outstanding	O		Outstanding		
Judgement and Commonsense	O			Outstanding	O		Exceptionally Outstanding		
Personal habits and physical fitness	O			Outstanding	O		Exceptionally Outstanding		

(b) ACRs for the period from June, 2013 to July, 2015 :

Attributes	Period of ACR (4)			Period of ACR (5)			Period of ACR (6)		
	01.06.2013 - 28.02.2014			30.05.2014 - 28.02.2015			09.03.2015 - 31.07.2015		
	IO	RO	CNS as SRO, NSRO	IO	RO	CNS as SRO/ NSRO	IO	RO	CNS as SRO/ NSRO
Performance of duties in the appointment	EO		Corresponding numerical assessment 7.8/7.8	EO	EO	Concur. The Officer has done a commendable job 7.8/7.8	O		Concur with the remarks 7.8/7.9
Ingenuity and Initiative	O			EO	EO		O		
Grasp, Analytical and Planning ability	O			EO	EO		EO		
Written and Oral Communication skill	O			EO	EO		EO		
Man management and motivating ability	EO			O	O		AA		
Ability to attend to his tasks with speed, reliability and decisiveness	EO			EO	EO		EO		
Professional Knowledge	EO			EO	EO		EO		
Tact, Team-spirit and Co-operation	EO			O	O		O		
Judgement and Commonsense	O			EO	EO		O		
Personal habits and physical fitness	EO			EO	EO		O		

The applicant has been consistently marked at **7.8** grading (equivalent to **'Above Average'**) by the CNS, as his SRO/NSRO. From the perusal of the above table, it can be

discerned that whilst the IO and the RO have given qualitative assessments which may correspond to the numerical grading between **8** and **9** in all the six ACRs (2011-2015), however, the CNS, as SRO/NSRO, has awarded grading of '**7.8**' in all the six (6) ACRs earned by the applicant during his SPS tenure/appointment. The numerical grading given by the CNS in all the six ACRs matches with the overall ACR profile of the officer prior to his deputation to SPS appointment and also as per the ACRs earned by the applicant after his deputation was completed in SPS and when he rejoined the Indian Navy. Therefore, there is no inconsistency in the award of numerical gradings given by the CNS as SRO/NSRO in the ACRs which the officer has earned during his SPS tenure/appointment as it matches with his overall profile in the Indian Navy. There is, therefore, no merit in the contention of the applicant that the ACRs rendered on him when he was on deputation in SPS has been reviewed by the CNS as SRO/NSRO in a biased manner.

22. We may refer to an order dated 19.08.2025 passed by this Bench of the Tribunal (PB) in the case of **Rear ADM/X(GS) Sandeep Mehta, VSM Vs. Union of India & Ors.** [O.A. No.

5064 of 2024], wherein it was observed that there being a tendency in the IO/RO/SRO to write Inflationary ACRs and CNS being the NSRO has been given the authority to rationalise the ACR marks to bring in semblance in the award of ACR marks as most ACRs are highly assessed (Inflationary) by the IO/RO/SRO. The relevant para is reproduced as under:

“56. The contention of the applicant regarding comparing the marks given by FOCINC (as IO/RO) with the marks given by CNS as NSRO is not correct as CNS being the NSRO is empowered to moderate the ACRs of all officers above Captain rank officers in the Navy. There is a tendency in the IO/RO/SRO to write Inflationary ACRs and CNS being the NSRO has been given the authority to rationalise the ACR marks to bring in semblance in the award of ACR marks as most ACRs are highly assessed (Inflationary) by the IO/RO/SRO. The CNS keeping in view the overall profile of the officers and the performance under review period finally awards the ACR marks as NSRO which are the final marks awarded to the officers in their ACRs. The system of moderating ACRs through the ‘PARB’ system of the Indian Navy has been challenged in the past at various judicial forums and the stand of the Navy to moderate ACRs has been upheld by various Courts.”

23. The applicant has also pointed out that the CNS (SRO/NSRO) cannot review his ACRs in terms of letter No. SPS

ID SPS/1002/2011/Staff dated 26.01.2012 and as per the decision of the Executive Council of the Nuclear Command Authority of India dated 16.04.2014. It is important to mention that the claim of the applicant in this regard does not hold merit on two counts; Firstly, the CNS has been empowered in terms of Corrigendum No. 1 dated 01.01.2000 (NI 1/2000) to Navy Instruction 20/90, governing Chapter 25 of the Regulations for the Navy, Part I, 1965 (Non-Statutory) [Para 15(2)] to review and moderate the ACRs of all officers of the rank of Captain and above as the SRO/NSRO. The extract of the said document reads as under :

“Navy Instructions 20/90 regarding Chapter 25, Regulations for the Navy 1969 Part 1. Non-Statutory, (Personal Records) is amended as under :

Add the following sub-Regulation 2510 (Confidential Reports of Officers)

15. PERFORMANCE APPRAISAL REVIEW- (1) All reports on Naval Officers of the rank of Lt Cdr and Cdr will undergo a ‘Performance Appraisal Review’ at Naval Headquarters by a Performance Appraisal Review Board (PARB) with a view to analyse instances of wide deviations from their previous overall career profile. The reporting/reviewing officers will be required to support very high /low markings in the remarks column. While reviewing the reports at Naval Headquarters, numerical periods may be suitably moderated on the recommendations of the PARB with

the approval of the Chief of Naval Staff so as to bring them in tune with officers' demonstrated past performance. CNS will lay down detailed guidelines to be followed for this purpose.

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

From the above, it is clear that the CNS is empowered to review ACRs of all the officers of the Indian Navy of the rank of Captain and above.

24. Secondly, the applicant has relied on two communications i.e. Executive decision dated 16.04.2014 taken by the Executive Council of the Nuclear Command Authority of India and Letter No. SPS ID SPS/1002/2011/Staff dated 26.01.2012 to claim that the CNS cannot review the ACRs of the applicant during his deputation in SPS, however, he has not placed on record both the communications on which he is relying upon. The respondents have also categorically submitted that they are neither aware of any decision dated 16.04.2014 of the Executive Council of Nuclear Command Authority of India nor letter No. SPS IDSPS/1002/2011/Staff dated 26.01.2012. In

the absence of above two documents which have not been submitted by the applicant to support his contentions; it is, therefore, incumbent upon us to decide the issue in question based on the records available and produced by both the parties. The fact remains that the CNS is empowered/authorised to review the reports of Captains and above, as per 'Corrigendum No. 1' dated 01.01.2000 (NI 1/2000) under Para 15(2) of the Regulations for the Navy Part-1 1965 (Non-Statutory), as brought out hereinabove. Towards this, it is important to refer to an order dated 27.09.2024 passed by the Tribunal in the case of **Rear Admiral R Sreenivas Vs. Union of India and Ors.** [O.A. No. **1020/2021**], wherein the Tribunal dealt with similar issue and concluded as under :

"40. Based on the above consideration we conclude that the CNS is entitled to review/moderate CRs of all Naval officers of the rank of Capt and above based on the provisions of Sub Regulation 15 of Regulation 2501 of the Indian Navy as promulgated vide Navy Instruction 20/90 as amended. This process is meant to analyse instances of wide deviation of a report from the previous overall career profile and have it suitably moderated to keep it in sync with an officers' demonstrated past performance. Thus, the process removes any subjectivity of a particular reporting/reviewing officer by correcting such

deviations. The process ensures just as an officer does not suffer due to a strict appraisal no one is allowed to gain advantage of an unduly liberal reporting officer. This process is followed by all the three Services. We have no hesitation in upholding the moderation carried out as the three CRs earned by the applicant as the TM (M&S) are a near 100% (and in one case more than the stipulated maximum) assessment, which is distinctly at variation from the applicant's overall past profile. The applicant has not been empanelled due to the limited number of vacancies and the overall comparative merit amongst those considered."

In the case of *Rear Admiral R. Sreenivas (supra)*, the applicant's RO was the Hon'ble RM and he had challenged that the CNS cannot review the ACR report initiated by the Hon'ble RM as the RO. The Tribunal in that case decided that the CNS is empowered to review ACRs of all officers of the Indian Navy above the rank of Captain.

25. We have also perused the Promotion Board proceedings of 2019, 2020 and 2021. The applicant has been considered by the three Promotion Boards but was not selected/empanelled by the Promotion Boards of 2019, 2020 and 2021 as per details as under :

	Selection Threshold	Officer's Position
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PB1A (X/GS) Board Year	Wt Avg %	OOM	Wt Avg (%)	OOM
2019	87.70	6	86.91	15
2020	87.40	9	86.90	18
2021	87.54	9	85.49	30

The applicant's non-selection to the rank of Rear Admiral is based purely on comparative merit and not on account of any procedural infirmity or arbitrariness.

26. In view of the above, O.A. No. 1365 of 2023 stands dismissed being devoid of merit. There is no order as to costs.

Pronounced in the open Court on 25th day of November, 2025.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

/ng/