

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

OA 3409/2023

Maj Mansoor Ahammad Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Veerendra Mohan, Advocate
For Respondents : Mr. Anil Gautam, Sr CGSC for R1-2

WITH

OA 3804/2024

Maj Mansoor Ahammad Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Veerendra Mohan, Advocate
For Respondents : Mr. Neeraj, Sr. CGSC

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HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

These Original Applications have been preferred under Section 14 of the Armed Forces Tribunal Act, 2007, by the applicant, being aggrieved by the endorsement of adverse remarks and weak Confidential Report (CR) by the Senior Reviewing Officer (SRO), and his consequent non-empanelment for the grant of Permanent Commission (PC) by Selection Board

No. 5 (No. 5 SB). The applicant has approached this Tribunal with the following prayers:

2. The prayers in OA No. 3409/2023 read as under:-

8.1.1 The entire assessment by the SRO and the RO including the adverse remarks by the SRO, be set aside being subjective, devoid of bonafides, influenced by a false disciplinary case against the applicant, ignoring the actual and verifiable outstanding performance of the applicant, besides being technically and legally untenable in terms of extant provisions of the guidelines on rendition of Confidential Reports issued by the respondents No. 1 and 2.

8.1.2 Issue directions to the respondents Nos. 1 and 2 for editing the connected records/profile and restoration of all consequential benefits retrospectively.

8.1.3 Issue any other directions and orders as may be deemed necessary and fit in the circumstances of the case.

3. The prayers in OA No. 3804/2024 read as under:-

8.1.1 Set aside the impugned No 5 SB.

8.1.2 Evaluate the reckonable quantified merit of the applicant inter-se his batch (SS94-NT), considered by the impugned No 5 SB, eschewing the adverse report by SRO in ICR 2019 and any other under-rated/subjective assessment(s) of any other reporting officer in any other CR of the applicant, and declare him fit for grant of permanent commission as per his original batch seniority.

8.1.3 Grant all other consequential benefits including detailment on career courses waiving of criteria deficit, if any.

4. The applicant was commissioned into the 16 Maratha Light Infantry Regiment on 15.09.2012. In May 2018, he was posted to the Assam Rifles in Manipur, where he served in

counter-insurgency operations in sensitive areas dealing with various underground armed groups. Subsequently, in April 2019, the applicant's unit was relocated to Mizoram, where he was entrusted with the command of a strategically critical Company Operating Base (COB) at Zokhawtar on the Indo-Myanmar border. His responsibilities included curbing smuggling of arms, ammunition, and narcotics.

5. The applicant contends that, in recognition of his notable operational accomplishments, he was awarded a Medallion of Excellence in September 2019 by Major General GAV Reddy, Inspector General Assam Rifles (East) [IGAR (East)], who also functioned as his SRO (Respondent No. 3). The applicant submitted his Confidential Report for the relevant period to his Initiating Officer (IO) in November 2019, wherein he claims to have been assessed as 'Outstanding' by both the Reviewing Officer (RO) and the SRO.

6. However, around the same period, a Court of Inquiry (CoI) was initiated by IGAR (East) in respect of alleged misconduct by certain Non-Commissioned Officers (NCOs) of the applicant's unit, i.e., 8 Assam Rifles. Pursuant to this,

proceedings under Army Rule 180 were invoked against the applicant, among others, in the capacity of witnesses. As a result, the applicant was divested of his command responsibilities at the COB and attached to 29 Assam Rifles for the purposes of participation in the CoI and any subsequent disciplinary proceedings.

7. That upon culmination of the Court of Inquiry proceedings, the Competent Authority was pleased to order the initiation of disciplinary action against the applicant, vide order dated 10.07.2020. During the pendency of such proceedings, the Impugned Confidential Report (ICR) pertaining to the period May 2019 to October 2019 came to be endorsed with adverse remarks in the *Pen Picture* by the Senior Reviewing Officer (SRO), Major General GAV Reddy, on 08.07.2020. The said adverse remarks were formally communicated to the applicant vide letter bearing No. 11011/CR/2020/339, dated 10.07.2020 (Annexure A-2). The adverse remarks as recorded in the Pen Picture are extracted hereinbelow for ready reference:

“Major Mansoor Ahammad is a stocky offr. His performance as Coy Cdr at sensitive COB Zokhawtar along Indo-Myanmar border in Mizoram has been average. The Offr’s conduct and behavior is not as per the service norms. The offr cannot be relied upon to accomplish sensitive tasks.”

8. The applicant submits that the adverse remarks so recorded in the Confidential Report were in stark contradiction to his actual and verifiable outstanding performance during the relevant period. It is his contention that such remarks were vitiated by bias and were allegedly influenced by the pendency of disciplinary proceedings, thereby rendering the assessment non-objective and untenable in law.

9. That the applicant was subsequently served with a tentative charge sheet dated 01.10.2020 (Annexure A-3 Colly), comprising eight charges. Pursuant thereto, a Summary of Evidence (SOE) was ordered and recorded, followed by an Additional Summary of Evidence, which concluded on 28.05.2021. Based on the evidence so recorded, a Summary General Court Martial (SGCM) was convened on 04.03.2022, wherein five charges were framed against the applicant under Sections 63, 39(a), and 39(b) of the Army Act, along with a charge under Section 69 read with Section 13 of the Prevention

of Corruption Act, 1988 - the latter provision being part of the legislation which had already been repealed and superseded in 2018.

10. That upon conclusion of the trial proceedings, the applicant was honourably acquitted and exonerated of all charges, and the findings of acquittal were confirmed by the Competent Confirming Authority vide order dated June 2023, a copy of which has been placed on record by the applicant. Notably, the said confirmation order has not been denied or rebutted by the respondents. The relevant extract of the said letter reads as under:

"CONFIDENTIAL

REPORT ON TRIAL

Description of the Court

Summary General Court Martial- Held on 28 Mar 2022. 06 Apr 08, 14, 15, 16, 18, 22, 23, 25, 26, 27, 28, 29, 30 Apr, 17 ay, 20, 21, 24, 28,30, 31 May 01 Jun, 02, 03, 06 Jun, 18 Jul, 19, 20, 22, 23, 25, 26, 27, 28 Jul. 01 Aug, 20 Sep 24, 26, 30 Sept, 03 Oct, 07 Nov,09, 10, 11, 12 Nov, 14, 18, 19, 24, 26, 28, 30 Nov. 01 Dec, 03, 05, 06, 07, 08, 09, 10 Dec 2022, 07 Jan 2023, 08, 09, 12, 25, 28, 29, 30, 21 Jan 01 Feb, 08, 09, 10, 15, 21, 27,28 Feb and 02 Mar 2023

No. Rank, Name and Unit

SS-45790M Major Mansoor Ahammad of

of the accused

8 Assam Rifle attached to 29 Assam Rifles

Charges

FIRST CHARGE
Army Act Section 63

*AN ACT PREJUDICIAL TO GOOD ORDER
AND MILITARY DISCIPLINE- END OF
Sep 2019 /02 Jul 2019*

SECOND CHARGE
Army Act Section 39 (a)

*Absenting himself without leave- 10 July
2019*

Third CHARGE
Army Act Section 39 (a)

*Without Sufficient Cause Overstaying leave
Granted to him- 31 July 2021*

FOURTH CHARGE
Army Act Section 69

*Committing a Civil Offence that is to say
Criminal Misconduct by a public servant
contrary to Section 13 (2) Read with
Section 13 (1) (b) of the prevention of
Corruption Act, 1988.*

FIFTH CHARGE
Army Act Section 69

*Committing a Civil Offence that is to say
Criminal Misconduct by a public servant
contrary to Section 13 (2) Read with
Section 13 (1) (b) of the Prevention of
Corruption Act, 1988.*

Findings

Not Guilty of all five charges

Sentence

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CONFIDENTIAL

11. It is further observed that the applicant was placed under a Disciplinary and Vigilance (DV) Ban vide order dated 27.07.2020, which remained in force until it was revoked vide order dated 04.10.2023, as is evident from the official communications placed on record by both parties.

12. Both Original Applications, i.e., OA No. 3409/2023 and OA No. 3804/2024, have been heard and considered together,

given the interconnected nature of the reliefs sought therein. It is noted that if the reliefs prayed for in OA No. 3409/2023 particularly in relation to the expunction of the assessments rendered by the Reviewing Officer (RO) and Senior Reviewing Officer (SRO) are granted, the applicant would automatically become eligible for reconsideration by Selection Board No.5 for grant of Permanent Commission (PC). Accordingly, the Tribunal proceeds to adjudicate both matters conjointly.

13. We have perused the counter affidavit filed by the respondents. The factual matrix as set forth in the Original Applications remains largely uncontested, save for the respondent's contention that the applicant became the subject of disciplinary proceedings in accordance with Para 27 of Army Order 02/2016/MS, w.e.f. 10.06.2020, thereby attracting placement under DV Ban. The Tribunal has carefully examined the applicant's entire Confidential Report (CR) dossier, with particular focus on the impugned CR for the period May 2019 to October 2019. It is observed that the applicant was assessed as 'Above Average' in the box grading by both the Initiating

Officer (IO) and the Reviewing Officer (RO), with a mix of numerical gradings of '8' and '9' across various performance parameters. Contrary to the applicant's assertion, there is no record to substantiate that he was graded as 'Outstanding' by either the IO or the RO.

14. On a holistic assessment, the said CR appears to be generally consistent with the applicant's overall CR profile. The applicant had preferred a statutory complaint in respect of the said CR, which was examined by the Complaint Advisory Board (CAB) at the Chief of Army Staff (COAS) Secretariat, and was rejected vide order dated 03.10.2022. It is also noted that the impugned CR was initiated by the IO on 20.01.2020, reviewed by the RO on 22.06.2020, and further reviewed by the SRO on 08.07.2020. Importantly, no adverse remarks were made either by the IO or the RO. However, the adverse remarks recorded by the SRO coincided temporally with the period during which the applicant was under disciplinary investigation. This observation assumes significance in view of the contents of Para 28 of Army Order 02/2016/MS, which stipulates as under:

Ratee involved in Disciplinary Case. CR/NIR will be initiated on officers under disciplinary proceedings as given below :

(a) In case disciplinary proceedings are completed within the reporting period before the due date of CR, officer is entitled to CR as per normal provisions of AO.

(b) If the disciplinary proceedings are not completed within the reporting period and the officer continues to discharge his official duties for the appointment posted, CR as and when due will be initiated. It will be ensured that assessment in such CR is objective and does not contain reference to the officer's involvement in the disciplinary case, in such CRs endorsement of SRO is mandatory to ensure objectivity.

(c) If the officer continues to remain under a disciplinary case during the reporting period and the officer has not been discharging his official duties for the appointment posted, no CR (when due) will be initiated and NIR for the period will be forwarded to MS Branch.

15. In our considered view, the adverse endorsement recorded by the SRO appears to have been influenced by the pendency of disciplinary proceedings, notwithstanding the fact that no guilt had been established at the relevant time of review. Since the applicant was subsequently exonerated of all charges and the DV Ban stood lifted, allowing the impugned CR to remain on record amounts, in effect, to indirectly punishing the applicant through the CR, which, in our considered opinion, is illegal and arbitrary.

16. In light of the above, we are of the opinion that the applicant's statutory complaint dated 03.10.2022 against the impugned CR (May 2019 to October 2019) was not

appropriately considered and the same merits a review. Accordingly, we direct that the said CR be placed before the Competent Authority for consideration of the statutory complaint dated 03.10.2022 within the framework of applicable policy and law, and appropriate relief be granted to the applicant on the merits of the case.

17. Without expressing any further opinion on the merits of the case, we remit the matter to the COAS Secretariat (CAB) for reconsideration of the statutory complaint within a period of two months from the date of receipt of this order.

18. Accordingly, OA No.3409/2023 stands disposed of in the aforesaid terms.

19. In so far as OA No.3804/2024 is concerned, we observe that once the impugned CR is expunged, the applicant shall, as a natural consequence, become entitled to reconsideration by No. 5 Selection Board for grant of Permanent Commission. Hence, subject to the outcome of the directions issued in OA No.3409/2023, the respondents are directed to place the applicant before No.5 Selection Board for reconsideration of his

case for grant of Permanent Commission, in accordance with extant policy, within a period of one month thereafter.

20. In view of the above, both the OAs stand disposed of with the aforesaid directions. Needless to say, if aggrieved, the applicant shall be at liberty to re-agitate his grievance before this Tribunal in accordance with law.

21. No order as to costs.

Pronounced in the open Court on 17 day of September 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

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