

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

C.

OA 5064/2024

Rear Adm/X(GS) Sandeep Mehta	Applicant
Versus		
Union of India & Ors.	Respondents

For Applicant	:	Mr. S S Pandey, Advocate
For Respondents	:	Mr. Anil Gautam, Sr. CGSC

CORAM

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

ORDER
19.08.2025

Vide our detailed Order of even date, we have dismissed the main OA No.5064/2024. Faced with this situation, learned counsel for the applicant makes an oral prayer for grant of leave for impugning the Order to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

2. After hearing learned counsel for the applicant and going through our 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, therefore prayer for grant of leave to appeal stands dismissed.

3. Even though vide order dated 08.08.2025 we had directed the respondents to produce before us certain documents and guidelines referred to in the Order and indicated that treating the matter as part heard we may hear it tomorrow, but as the

documents were produced before us by the respondents we have gone through the same and are pronouncing the Order today.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL CHIREN VIG]
MEMBER (A)

/vb/ak/

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

O.A. No. 5064 of 2024

In the matter of :

Rear ADM/X(GS) Sandeep Mehta, VSM ... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri S.S. Pandey, Advocate

For Respondents : Shri Anil Gautam, Sr. CGSC

CORAM :

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

ORDER

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 :

“(a) Call for entire records of the Applicant and his peers for all three Promotion Boards on the basis of which the Respondents have included the Applicant in the zone of consideration for 2021 and have denied the Applicant promotion to the rank of Vice Admiral despite availability of

vacancy for it during the holding of Promotion Boards in 2022 and 2023 and subsequently; rejecting his RoGs dated 06.05.2024 and 08.07.2024 vide their impugned orders dated 01.07.2024 and 15.10.2024 without due application of mind and thereafter quash the same including impugned orders dated 01.07.2024 and 15.10.2024;

- (b) Scrutinize the ACRs of the Applicant considered by PB-1 during years 2021, 2022 and 2023 and compare the same with his previous ACRs and if any perceptible down gradation in these ACRs of the Applicant in comparison to past profile; especially the assessment by his SRO for the duration and downward revision by the then CNS once ACR was presented to him including any recommendation that would amount to unfair assessment and aberration, and thereafter expunge the same in its entirety;*
- (c) Further issue orders to place on record the ACRs of the Applicant as well as his peers during PB1 of years 2021, 2022 and 2023 to assess for upward revision of ACRs of his peers in order to*

bring down the Applicant in the OOM considering that Promotion Boards are based on 'Comparative Merit'.

- (d) Direct the Respondents to re-consider/ review the Applicant as a special case and if found fit, may be promoted to the rank of Vide Admiral against an existing vacancy, duly preserving his original seniority of PB1/2022 as fresh Look with all consequential benefits;*
- (e) Issue any other/direction as this Hon'ble Tribunal may deem fit in the facts of the case, by calling for the policies and quashing the same which is used by the Respondents to withhold the number of vacancies and the probable Officers to be considered by the Board before the holding of the selection board with intimation to the officers if any of them have been made to face any downward moderation as also the justification of such unbridled and indiscriminate powers vested in the Respondent No.2 which cannot be reviewed by PARB, which leaves no room for any further review, since even the RACAB is ordered by the Respondent No.2 for*

the sake of transparency and purity of the administration to give a fair opportunity to the Officers to seek redress if any such unfair decisions to be taken up by making an informed choice.

9. INTERIM ORDER IF ANY, PRAYED FOR:

Considering the emergent situation and for the sake of justice the Respondents be directed to make available the approach papers prepared for the PB-1 in 2021, 2022 and 2023 to enable him as to how he has been included in the zone of consideration in 2021 and also the manner in which he was considered in 2022 and 2023. Further, the Respondents be directed not to fill the currently available vacancy for Vice Admiral falling due in Jul 2025 till final disposal of the present OA.

2. The facts of the present case, in brief, are that the applicant got commissioned in the Indian Navy on 01.01.1989. The applicant has narrated about exemplary service performed by him in his career due to which he was suitably rewarded/awarded in various postings including afloat and

ashore appointments. The applicant underwent 39th Army Higher Command Course at AWC, Mhow w.e.f. July, 2010 to April, 2011; was awarded commendation by Chief of the Naval Staff once and commendation by FOC-IN-C twice in his career.

3. The applicant in the rank of Captain commanded INS 'Delhi' from December, 2012 to August, 2014 during which his ship participated in all major deployments of the Western Fleet including major exercises of the Navy like TACEX, DGX, WEFDEPs, Op NEVLA, Op Deployment to Maldives etc. including continuous deployment to Atlantic Ocean (Off Lisbon) for escorting INS Vikramaditya and his ship was adjudged the 'Best Ship' in the Western Fleet under his command. From Feb 2015 to Sept 2018, the applicant was posted as Defence & Naval Attache at Washington DC, USA where he was instrumental in proactive liaison with US DoD, US Joint Staff, US DIA, US Navy, Indian Embassy/MEA and other stakeholders to progress IN-USA bilateral military relations which involved signing of various agreements, contracts, planning towards conduct of numerous IN-USN exercises, formation of DTTI Joint Working Group on Aircraft

Carrier Technology Cooperation and supported & facilitated naval acquisitions with USA (both FMS & DCS) etc.

4. The applicant states that post-Pulwama, the Western Naval Command continued in heightened state of readiness with high Op tempo and Op preparedness of all units and during this time, the applicant, while performing the duties of CSO (OPS) HQWNC in the rank of Rear Admiral w.e.f. Mar 2019 to Jan 2021, played efficient role in planning, execution and sustenance of numerous Op deployments viz. 'Op Merlin', 'Op Sankalp', 'Op Nevla/Bagla', PoG, 'Op Varsha Rahat' (Flood Relief Ops), 'Op Tempest', 'Op Samudra Setu', 'Op Vanila', 'Op Sagar', 'Op Ajinkya 1 & 2', Op deployment of submarines, etc. and thus the applicant was awarded Vishisht Seva Medal for significant contributions towards service in 2020-2021.

5. It is the case of the applicant that he was considered for Op Streaming in the year 2021 with the other eligible Officers by OP Streaming Board to decide the suitability of Officers to hold the position as Fleet Commanders/Flag Officer Maharashtra Area (FOMA); that two other officers who were found fit for Op Streaming were Rear Admiral (Now Vice Admiral) Sanjay Bhalla and Rear Admiral (Now Vice Admiral)

Sameer Saxena who were appointed as Fleet Commander of Eastern & Western Fleet respectively and the applicant was Op Streamed to take over as FOMA in Dec 2021. It is the case of the applicant that between July to September 2021, unknown to the applicant, while the applicant was yet to take over the appointment of FOMA, the respondents were required to hold the selection board PB-1 (selection from RAdm to VAdm) for consideration for promotion of eligible officers for year 2021 for which total five vacancies were available. It has been further submitted by the applicant that the respondents, vide letter dated 08.06.2021, called for the Special CR upto 10.06.2021 of all the Officers who were to be considered for Op Streaming Board/ Promotion Board No.1 for promotion to the rank of Vice Admiral by circulating the list of the officers attached with the said letter which included the name of the applicant at serial No.12.

6. The applicant further submits that as per the existing policy on the subject as many as 10 'Fresh Look' Officers (twice the number of vacancies) were required to be considered for such promotion; that the officers as per seniority who were to be considered as 'Fresh Look' started from RADM (Now Vice

Admiral) Srinivas Vennam, and the Officer in the seniority list placed at 10th position was RADM (Now Vice Admiral) Ajay Kochhar, whereas the applicant was placed at 12th position in the said list. The applicant further stated that if his name was also included for consideration by PB No. 1 in 2021, it was totally illegal, arbitrary and contrary to the policy of the respondents and they resorted to such an exercise only with a mischievous design to create a pretext of consideration by depriving him fair consideration chances and making him a Review Case in 2022, whereas that should actually have been his Fresh Look consideration in 2022 which also resulted in denial of consideration to the applicant in 2024 which was his most legitimate expectation even if he was overlooked for promotion in 2022 and 2023; that this was done when the applicant had not even taken over his appointment of FOMA post-Op Streaming. The applicant submits that he did not belong to same Batch or Select List Year of the officers who were to be considered in the said Selection Board in 2021 and, therefore, such consideration was totally unnecessary and meaningless when he was supposed to compete with the officers who had already held the position of Fleet

Commanders/ FOMA and awaiting their consideration against five vacancies.

7. It is further the case of the applicant that the respondents conducted the said PB No. 1 in 2021 and as per the Rules after getting all approvals published the select list through a signal called 'IG' as required by the policy and as many as five Officers were declared fit for promotion as Vice Admiral in Oct 2021, however, the applicant did not even get to know that he was included in the zone of consideration and was overlooked for promotion in the said selection board at any point of time till as late as July 2024. The learned counsel for the applicant further submitted that the letter dated 08.06.2021 placed at Annexure-A2 to the OA, which had asked for Special CRs to be raised, does not specify whether the officer was being considered for Op Streaming or was being considered for promotion/selection board, PB No. 1, and, therefore, the applicant assumed that the special CR being sought on him is for consideration for Op-Streaming only and not for consideration for the promotion/selection board, PB No. 1, for selection to the rank of Vice Admiral in 2021.



8. The applicant further submitted that the then Chief of the Naval Staff, Admiral Karambir Singh retired and Admiral R Hari Kumar took over as the Chief of the Naval Staff on 30.11.2021 and by virtue of his position, became the Chairman of the Selection Boards which were to be held for promotion of eligible Officers as Vice Admiral having unrestrained discretionary powers to decide the award of Value Judgment marks of 5 percent as part of the Promotion Board; that the applicant was purposefully overlooked for promotion in the subsequent promotion boards of 2022 and 2023, as being the one of the youngest Officer of the Batch; that, according to the applicant had every chance to reach to the highest position in the Navy as promotion above the said rank was mostly based on seniority and residual service; that the applicant has every reason to believe that the denial of promotion to him was unfair and may have been result of unfairly down moderating his ACRs by the then Chief of the Naval Staff which was not performance-based and that this can be verified by calling for the relevant ACR records, approach paper as well as the Selection Board Proceedings to ascertain if the respondents have resorted to any process by

purposefully either down-moderating the ACRs of the applicant or up-moderating the ACRs of the Officers with whom he was competing in the Promotion Boards.

9. The learned counsel for the applicant also submitted that his ACR marks should be scrutinized at the FOC-IN-C level (his IO) and compared with marks given by the CNS (NSRO) to check if the CNS as SRO/NSRO has down-moderated his ACR marks in a biased manner.

10. The learned counsel for the applicant submitted that Para 2 of the letter dated 06.12.2004 (Annexure-R4) gives the criteria for officers to be selected for Op Streaming and it specifically states that the officers who have further growth potential will be selected for Op Streaming. The learned counsel of the applicant amplified that '**further growth**' in ibid letter means that those officers who have the potential to become Vice Admiral will only be Op Streamed and the applicant, therefore, has legitimate expectation to be promoted to VAdm as he was Op Streamed and has successfully completed the tenure of FOMA.

11. The learned counsel for the applicant also cited a recent judgment of the Hon'ble High Court of Delhi dated 01.07.2025

in the case of **Maj Gen Dharmarajan, PVSM AVSM, SM VSM**
(Retd.) Vs. Union of India & Ors. [W.P. (C) 7381/2024] and
emphasised on adherence to due process in dealing with
promotion matters and hence submitted that due process
should have been done/followed in the case of the applicant
also.

12. It is the case of the applicant that he took over as FOMA
and during the period from Dec 21 to Nov 22 he played a very
effective role of FOMA being posted at HQ, FOMA and went on
to explain as to how he carried out his duties as FOMA in the
most exemplary manner addressing all aspects of operations,
administration, welfare discipline, infrastructure and works,
civil-military relations and Army Navy liaison etc.

13. The applicant submitted that it was informally learnt
that his contribution as FOMA was duly recognized by his
immediate superiors who proposed his name for award of Ati
Vishisht Seva Medal (AVSM) as priority-1 but the applicant
alleges that the then Chief of Naval Staff, who was very
cognizant of laying down a line of succession in the Indian
Navy, deliberately did not recommend his name for the award
of AVSM which can be verified from the records which clearly

amounts to malice in law. The learned counsel for the applicant submits that Admiral R Hari Kumar for similar reason used his command influence by firstly purposefully up-moderating the ACRs of the other Officers who were being considered with the applicant and probably down-moderating his ACRs as also deliberately awarding lesser value judgment marks to the applicant which all, according to the applicant, are clear example of abuse of his power amounting to malice in law. The applicant further submitted that not a single Flag officer who has been Op Streamed had been ever overlooked for promotion since 2008 except the applicant.

14. The applicant further submitted that the respondents again held the PB-1 in terms of the Navy Order (Spl) 01/2012, as amended vide letters of 2017 and 2019 between Jul-Sep 2022 in which the applicant was under a bonafide belief that he will be considered by giving him a 'Fresh Look' but as mentioned above, he was already wrongly considered as Fresh Look in 2021 and, therefore, he was considered in the Promotion Board-1 as an 'R1' case and overlooked for promotion as First Review Case which he was not at all aware.

15. The applicant submitted that the respondents published the Select List of promotion to the rank of Vice Admiral in Oct 2022 and three officers were promoted to such rank against three vacancies namely RADM (Now Vice Admiral) Atul Anand who was the predecessor of the applicant from whom he had taken over as FOMA and was one year senior to the applicant; however, the other two officers, namely, RADM (Now Vice Admiral) Sanjay Bhalla and Rear Admiral (Now Vice Admiral) Sameer Saxena who were appointed as Fleet Commander and OP Streamed along with the applicant but were otherwise junior to the applicant were also approved for promotion when the applicant should have been rightfully included in the list of selected officer had the respondents not rigged the entire Selection Process starting from 2021 just to deny promotion to the applicant.

16. The applicant further submitted that despite denial of promotion from Dec 2022 till date, the applicant has been performing the dual responsibilities of ACCP & ACWP & A at NHQ in an exemplary manner.

17. The applicant submits that the respondents issued the new promotional policy which was promulgated as Navy Order

(Spl) 06/2023; that though denial of promotion was demoralising for the applicant but he still had the faith in the system and was not aware of the fact that Promotion Policy of 2023 was disadvantageous to the applicant wherein despite as many as six vacancies; the applicant was given consideration as third Look which ought to have been his second Look but was not promoted. Further, the applicant alleges that the respondents, instead of publishing the list of approved officers through an 'IG' as was done in 2021 and 2022 as per policy, in the case of selection board held in 2023 instead of issuing an 'IG', the respondents issued orders of transfer of three officers without disclosing that they have been approved for promotion in Nov 2023 and were promoted secretly without disclosing the name of the approved officers through an 'IG' as they were fully aware that if the applicant is made aware of the same not only he would have filed his complaint but would have gone to the extent of taking legal recourse having meted out such discrimination by denying him promotion. The applicant submits that since his juniors were already placed as Vice Admirals, he understood that he was not approved for promotion. The applicant thus submits that the IG should

have been published and it is in violation of Navy Order (Spl) 06/2023 (Para 30 of ibid NO) and thus non-publication of an 'IG' announcing the names of selected officers amounts to malice in law.

18. It is submitted by the applicant that the respondents issued orders through a letter for promotion for the remaining two officers of 2023 Promotion Board against the two left-over vacancies just when the vacancies were to lapse on 31.08.2024 as the 2023 Board had catered for the six vacancies arising from 01.09.2023 till 31.08.2024. According to the applicant, this was done by issuing orders for promotion for RADM (Now Vice Admiral) Rajesh Dhankhar and RADM (Now Vice Admiral) CR Praveen Nair who had not even completed the viable tenure of 11-12 months as Fleet Commanders post Op Streaming as per the norms as they had assumed the appointment as Fleet Commanders in Nov 2023 and in this way, all the six vacancies were filled up by the respondents.

19. The learned counsel for the applicant submitted that the Selection Board i.e. PB No. 1 was held on 29.09.2023 in which there were six vacancies for promotion to the rank of Vice

Admiral and as per the Navy Order (Spl) 01/2012 as amended vide NHQ letter dated 13.06.2017 and further amended by letter dated 21.08.2019, the respondents were supposed to take 12 officers as 'Fresh Look' officers for consideration. However, the respondents have only considered nine officers as 'Fresh Look' officers, thereby violating their own Policy.

20. Thereafter, aggrieved by his non-selection for the promoted rank of Vice Admiral by both the Promotion Boards of 2022 and 2023, the applicant preferred his RoG (Redressal of Grievance) dated 06.05.2024. The applicant submits that his RoG unlawfully was placed before a subordinate authority instead of Respondents No. 1 for passing of necessary directions; that the said RoG of the applicant was rejected vide letter dated 01.07.2024 by Respondent No. 2. Against the said rejection letter dated 01.07.2024, the applicant preferred another RoG dated 08.07.2024 requesting for forwarding his original RoG considering the same to be his 'Statutory' representation to the next higher authority viz. MoD/DMA for redressal.

21. The applicant further submitted that vide impugned order dated 15.10.2024, Respondent No. 1 disposed of the

Statutory RoG of the applicant, based on the comments of the Naval HQ, without any reasons mentioned for considering it to be devoid of merit. Hence, aggrieved by the rejection of his both the RoGs dated 06.05.2024 and 08.07.2024 vide respondents' letters dated 01.07.2024 and 15.10.2024 respectively, the applicant has filed the present OA seeking reliefs as prayed for.

22. In support of his submissions, the learned counsel for the applicant placed before us the following judgments :

- (i) **Lieutenant General Manomoy Ganguly, VSM Vs. Union of India and others [Writ Petition (C) No. 980 of 2018- (2018) 18 Supreme Court Cases 83]**
- (ii) **Maj Gen Dharmarajan, PVSM AVSM, SM VSM (Retd.) Vs. Union of India & Ors. [W.P. (C) 7381/2024] judgment dated 01.07.2025 of the High Court of Delhi**
- (iii) **Brigadier Nalin Kumar Bhatia Vs. Union of India and others [Civil Appeals No. 5751 of 2017 - (2020) 4 Supreme Court Cases 78]**
- (iv) **Maj Gen K.K. Sinha, SM, VSM Vs. UOI & Ors. [O.A. No. 74/2015 - AFT, PB, New Delhi]**

23. The respondents have filed their detailed counter affidavit dated 27.03.2025 and at the outset submitted that arguments of the applicant are mere conjectures and not supported by facts. The learned counsel for the respondents also submitted that the allegations have been levelled against

the then CNS and he has not been impleaded as a party in the OA and similarly all other officers who were selected for the rank of VAdm whilst the applicant was considered for selection in 2021, 2022 and 2023 have also not been impleaded as Party in this OA.

24. The learned counsel for the respondents submitted that the applicant, belonging to SLY 2018 (RAdm), was considered for promotion to the rank of VAdm by the Flag Board 1 (X/GS) held on 30.07.2021 as First Look case along with Review-1 (R-1) and Review -2 (R-2) cases in accordance with Para 11 to 15 of NO (Spl) 01/2012, which has been filed as Annexure R-1 along with the counter affidavit, amended vide NHQ letter No. RS 3508/05/OABR/15 dated 13.06.2017 and letter No. RS 3508/05/OA&R/19 dated 21.08.2019.

25. The learned counsel for the respondents further submitted that the Promotion Board-1 (X/GS)/2021 was conducted on 30.07.2021 for 05 vacancies in the rank of VAdm; that the Board considered RAdms of SLY 2018 (04 officers considered including the applicant) and SLY 2019 (06 officers considered) as Fresh Look cases along with R-1 (11 officers) and R-2 (04 officers) cases in accordance with NO (Spl)

01/2012, amended vide NHQ letter No. RS/3508/05/OA&R/15 dated 13.06.2017 and letter No. RS/3508/05/OA&R/19 dated 21.08.2019. The learned counsel referred to Para 3 of letter No. RS/3508/05/OA&R/19 dated 21.08.2019 which reads as follows : "*(a) .. For promotion to the rank of Vice Admiral, Fresh look officers numbering twice the number of vacancies occurring will be considered for promotion... and (b) The concept of SLY for promotion to the rank of Vice Admiral (PB-1) will not be split in normal condition*". The learned counsel further submitted that the applicant was not selected in 2021 Flag board due to low in the *inter se* merit.

26. The learned counsel further submitted that the Promotion Board-1 (X/GS)/2022 conducted on 25.07.2022 considered RAdm of SLY 2020 (09 officers) as a 'Fresh Look' along with 'R1' (10 officers including the applicant) and 'R2' (04 officers); that there were three vacancies for promotion to the rank of Vice Admiral and that the applicant was not empanelled for promotion by the Promotion Board-1(X/GS)/2022 due to comparative lower *inter se* merit.

27. The learned counsel for the respondents further submitted that the Promotion Board-1 (X/GS)/2023,

conducted on 29.09.2023, considered RAdms of SLY 2021(09 officers) as a Fresh Look along with 'R1' (09 officers) and 'R2' (08 officers including applicant) cases. There were 06 vacancies for promotion to the rank of VAdm. The applicant was not empanelled for promotion by the Promotion Board-1 (X/GS)/2023 due to comparative lower *inter se* merit. The learned counsel for the respondents further submitted that as per Para 18 Note 2 of the Navy Order (Spl) 1/2012, there is a provision for taking lesser number of 'Fresh Look' officers than twice the number of vacancies and hence in PB No. 1 for 2023, the competent authority had approved taking lesser number of officers for that particular year as a 'Fresh Look' officers for selection.

28. The learned counsel referred to provisions of Navy Order (Spl) 01/2012 for demonstrating that the officers are to be considered for promotion up to three times and accordingly, the applicant has been considered thrice for promotion. The learned counsel clarified that no discrimination has been done with the applicant as per extant Regulations Policies/ Navy Order etc.; that the applicant was not selected for promotion to the rank of Vice Admiral on account of his relative merit and

comparative evaluation as assessed by Promotion Board PB1 (X/GS) 2021, 2022 and 2023.

29. The learned counsel stated that the contention of the applicant that his name was wrongly considered for PB-1 (X/GS)/2021 is misconceived and denied. It is further submitted on behalf of the respondents that the applicant has himself admitted in Para 4.11 of OA that when the special CRs were called for Op Streaming/Promotion Board, his name was included in the said letter dated 08.06.2021 (Annexure-A-2) and, therefore, now the applicant cannot plead ignorance that he was unaware that he was being considered for promotion in the year 2021.

30. The learned counsel for the respondents submitted that Op Flag Board was held on 30.05.2021 for selection of Operational Appointments as per guidelines contained in IHQ MoD(N) letter No. RS 3507/OPS/OA&R dated 06.12.2004 (Annexure R-4) and selected 2 officers [i.e. RAdm Sandeep Mehta (as FOMA) and RAdm Sanjay Bhalla (as FOCEF)] of SLY 2018; and 01 officer [Le. RAdm Sameer Saxena (as FOCWF)] of SLY 2019. The learned counsel for the respondents further submitted that the applicant has developed a false notion that

those officers who have been selected for tenanting the Operational Appointment in the rank of RAdm are entitled for promotion to the next higher rank i.e. Vice Admiral, however, this is not supported by any Policy/instruction/ rules for promotion to the higher rank; that for promotion to the rank of VAdm, selection, holding of Operational Appointments is not essential and is not supported by any Regulations/Policies/ Navy Orders etc.

31. With regard to the allegation made by the applicant about the consideration and rejection of his RoG dated 06.05.2024 by the subordinate authority instead of Respondent No. 1, the learned counsel for the respondents contended that the applicant's first RoG dated 06.05.2024 was examined by the Personnel Branch of the Navy and thereafter, it was referred to Special Redressal and Complaint Advisory Board (RACAB) comprising VCNS and DCNS as members, being senior to the applicant for independent examination and the Special RACAB recommended that the grievance of the Flag Officer be rejected being devoid of merit and thereafter, when the applicant preferred his second RoG vide letter No. 242/SM/PC dated 08.07.2024 and requested that his original

RoG be forwarded to the next higher authority viz. Ministry of Defence for redressal, being not satisfied with the reply of Naval HQ and the same was forwarded to MoD and MoD/DMA has also rejected the said RoG/Statutory representation of the applicant vide Order No. RS/ 1865/ROG/OA&R/ 24/05/N/SC/2024-ROG/Stat dated 15.10.2024 being devoid of merit.

32. The learned counsel for the respondents responding to non-award of AVSM to the applicant submitted that the recommendations for all the officers who are to be awarded 'AVSM' in the Navy are received from all the formations of the Navy and they are collated at Naval HQ and thereafter a Committee headed by the Hon'ble Raksha Mantri decides the final list of officers or personnel of the armed forces who are to be awarded this prestigious award and, therefore, there is no malice in non-award of AVSM to the applicant in the year 2022. The learned counsel for the respondents further added that due to his performance however, the applicant was awarded AVSM in the year 2025. The learned counsel further submitted that in any case the award of AVSM is not a criteria for promotion from Rear Admiral to the rank of Vice Admiral.

33. The learned counsel for the respondents replying to the applicant's averment that no FOMA in the past has been denied promotion to the rank of Vice Admiral, submitted that there are precedents in the past where RAdms who have tenanted the appointment of FOMA have not been promoted to the next higher rank; viz. RAdm MP Taneja, RAdm Kochar, RAdm A Tewari, RAdm IK Saluja and RAdm A.Y. Kalaskar and that no regulations/policies/Naval Order etc. which supports the contention or claim of the applicant in this regard.

34. The learned counsel for the respondents submitted that the promotion boards were conducted as per extant Navy Order/Promotion policies. It was further submitted that as per Para 15 of the Navy Order (Spl) 01/2012, owing to the limited number of vacancies available for promotion in PB-1, the Promotion Board will select officers on the basis of comparative *inter-se* merit for preparing the final merit list and for recommending officers for promotion to the higher rank. The quantified system of selection will be followed by the Promotion Board. The system will have the following :

- (a) 95% weightage will be assigned to ACRs available in present rank.

- (b) 5% marks will be awarded by the Promotion Board for Value Judgment.

It has been further submitted that that parameters for 'Value Judgement' by Board Members will be Performance and Personality, recommendation recorded in the ACR, Potential and Employability, Career Profile and Awards and Achievements including performance in major courses. The Promotion Board is held under the Chairmanship of CNS and other members viz VCNS, all the three FOCs-in-C, and COP as member secretary; that the Board Members are senior most officers and highly qualified professionals; they take decision objectively; the ACRs marks are based on performance; that 'VJ' marks are given individually by the Board Members based on the above-mentioned parameters. The final Overall Order of Merit (OOM) is reached after adding ACR marks and Value Judgement marks.

35. The learned counsel for the respondents further submits that with respect to moderation of ACRs Navy Instruction 20/90 (Annexure R-5), Para 15 states about performance appraisal review as under :-

15. PERFORMANCE APPRAISAL REVIEW -(1) All reports on Naval Officers of the rank of Lt Cdr and Cdr will undergo 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 grades may be suitable moderated of the recommendations of the PARB with the approval of the CNS so as to bring them in tune with officers demonstrated 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 Captain and above will be undertaken and gradings suitably moderated by the CNS as Senior Reviewing Officer/Next Senior Reviewing Officer.

36. The learned counsel submits that this provision of moderation of ACR reports has been challenged before different Tribunal/Courts and has been upheld, for e.g. in the

case of Cmde Ravindranathan (HC), Cmde PK Banerjee (SC), RAdm R Srinivasan (AFT) etc.

37. The learned counsel submitted that due to administrative reasons, the select list of Promotion Board-1 (X/GS) 2023 through an 'IG' was not published; that the Promotion Board-1 was conducted as per extant promotion policy and that the recommendations of the Promotion Board (PB-1) held in 2023 was approved by the Appointment Committee of the Cabinet (ACC). The learned counsel for the respondents further submitted that four vacancies were already available when the approval of the ACC was accorded for the officers selected in PB No. 1 held in 2023 and hence promotion letters were issued for all the four officers immediately and no prejudice was caused to the applicant by not publishing the 'IG'.

38. The learned counsel stated that in light of the detailed submissions made and the extant provisions, the applicant is not entitled to any relief and thus the present OA deserves to be dismissed.

39. In response to the arguments made on behalf of the respondents with respect to impleading the then CNS and

other selected officers, the learned counsel for the applicant referred to the order dated 29.04.2015 of the AFT (PB) in the case of **Maj Gen K.K. Sinha, SM, VSM Vs. Union of India & Ors. [O.A. No. 74 of 2015]** to submit that it is not necessary to implead them as party. The learned counsel for the applicant also submitted that the applicant has not challenged the empanelment of other officers and hence they are not required to be impleaded as party to this OA.

ANALYSIS

40. We have heard the detailed submissions made by both the learned counsel for the parties and have also perused the records filed and also the original records produced by the respondents.

41. The main issues raised by the applicant in the OA are as follows :

- (a) Despite being Op-streamed to take over an operational appointment in the Navy, the applicant was not selected for promotion from RAdm to VAdm in all his 3 chances.

- (b) The applicant's ACR has been deliberately downgraded/down-moderated by the then CNS so as to deny him promotion to the rank of VAdm.
- (c) The respondents have violated its policy enunciated in Navy Order (Spl) 01/2012 of not having considered the appropriate number of officers as 'Fresh Look' officers in all the three Promotion Boards No.1 and especially Promotion Board No.1 held in 2023.
- (d) The applicant was not aware that he was considered as a 'Fresh Look' officer in Promotion Board No. 1 held in 2021 till the disposal of his Statutory Complaint (RoG) by the Central Govt. in 2024, and hence should have been given his 3rd chance in 2024 in the Promotion Board No. 1.
- (e) The applicant was deliberately denied the award of AVSM by the then CNS so as to mar his chances of promotion.
- (f) The result of Promotion Board No. 1 held in 2023 was not publicised by promulgation of a signal called 'IG' which is mandated by the Navy Order (Spl) 01/2012 so

as to conceal the applicant's non-empanelment to the rank of VAdm and thereby denying him to approach appropriate authority seeking redress of grievances in a time-bound manner.

42. On perusal of the original records submitted by the respondents, we find that the RoG dated 06.05.20204 filed by the applicant was examined by the Navy by referring it to a Special Redressal and Complaint Advisory Board (RACAB), which comprised VCNS and DCNS as members, and it was recommended by the Special RACAB that the grievance of the Flag Officer be rejected being devoid of merit. It is also evident from the record that the applicant's second RoG dated vide letter dated 08.07.20204 was forwarded to the MoD and the MoD/DMA rejected the said RoG vide order dated 15.10.2024 being devoid of merit. Hence, both the RoGs of the applicant were duly considered and after examining, the same were decided and rejected as being devoid of merit.

43. The first issue to be considered is about applicant's claim that he was unaware that he was being considered in the PB No. 1 held in 2021. The respondents' letter No. RS/4020/ACR/21 dated 08.06.2021 (Annexure A-2) is the

document which directs Special CR to be rendered on officers as mentioned in Appendix 'A' of the ibid letter and the ibid letter does not qualify further as to why the Special CR is being sought by the respondents. The applicant, however, as per his own averment in Para 4.11 of the OA has stated that he was aware that the Special CR called for upto 10.06.2021 vide ibid quoted letter was to consider him for Op Streaming/Promotion Board No. 1 in which his name was included at Serial No. 12 (however it is shown at Sl. No. 17) in the list at Appendix 'A' of ibid letter. Whilst it is established that the respondents have not very clearly promulgated to the environment about officers who are being considered either for Op Streaming or consideration for promotion to VAdm rank (conduct of PB No.1) through the above quoted letter or through any other communication, however, in our opinion, no prejudice has been caused to the applicant on account of non-promulgation of conduct of Promotion Board No. 1 to the environment in general by the respondents. The non-promulgation of the conduct of the PB No. 1 has also not affected the selection process in which the applicant was considered for promotion to the rank of VAdm.

44. The second issue raised by the applicant is that his selection for an 'Operational' appointment leading him to tenant the appointment of Flag Officer commanding Maharashtra Area should have resulted in his promotion to the rank of Vice Admiral. The applicant has stated this based on the wordings of the Para 2 of letter No. RS/3507/OPS/OA&R dated 06.12.2004 which deals with selection of officers for operational appointments and Para 2 of the letter reads as follows :

"2. Criteria for Selection. Selection is made on the basis of merit-cum-seniority with special focus on each officer's operational orientation and performance at sea particularly in Command assignments afloat during his career. Since these are special assignments that require an individual to shoulder added operational responsibility, it is only from amongst those who have further growth potential that selection is made. The Flag Officers under consideration for selection for these appointments should have generally been recommended for the same in their ACRs in the Flag rank."

[Emphasis supplied]

45. The applicant has emphasised that officers selected for operational appointment have further growth potential in the Navy which means that officers who are selected for these

appointments should be promoted to VAdm as **'further growth'** naturally indicates that the RAdm ranked officers would be promoted to the rank of VAdm. The applicant also cited that no FOMA since 2008 has missed the promotion to the rank of VAdm.

46. We have gone through the ibid quoted letter of respondents dealing with selection of Flag Officers for operational appointments as well as the policies/rules/Navy order/Approach paper governing conduct and selection of officers for promotion to the rank of VAdm through Promotion Board No. 1. The issue of promotion from RAdm to VAdm has been clarified in Para 7 of ibid quoted letter and reads as follows:

"7. Consideration for Promotion to the Rank of VAdm. Notwithstanding the fact that the above three Operational Appointments are assigned to RAdm (X) after selection based on the above norms, as far as promotion to the next ranks is concerned, all Flag officers who fall within the prescribed seniority bracket will receive due consideration by the Promotion Board irrespective of the fact whether they have held these appointments or not."

Para 7 of the letter No. RS/3507/OPS/OA&R dated 06.12.2004 as mentioned hereinabove amply and clearly demonstrates that all RAdm (X) in the prescribed seniority bracket will be considered for promotion to the rank of VAdm (X) irrespective of whether they have been 'Op-Streamed or not. The mere statistics that there is no FOMA who has not been approved for VAdm rank since 2008 does not give an absolute to the applicant to be promoted to the rank of VAdm. The officers are continuously evaluated by rendering ACRs on them every year and it is only those officers who continues to perform well and are higher in merit in the Overall Order of Merit (OOM) are finally selected for the promotion from the rank of RAdm to VAdm. The contention of the applicant solely based on the provisions of Para 7 of letter dated 06.12.2004 and no FOMA since 2008 has missed his promotion to the rank of VAdm does not hold good.

47. In so far as the issue of Fresh Look officers is concerned, the applicant has faced three selection boards viz. PB No. 1/2021, PB No. 1/2022 and PB No. 1/2023. The 'Fresh Look' officers considered in each selection board is tabulated below:

Sl. No.	PB No. 1 (Year)	No. of vacancies	'Fresh Look' officers	Total officers considered including 'R1' & 'R2' officers	Remarks
1.	2021	05	10 (SLY 2018 (04 officers) and SLY 2019 (06 officers)	25	--
2.	2022	03	09 (SLY 2020)	23	--
3.	2023	06	09 (SLY 2021)	26	Waiver accorded by the competent authority, MoD/DMA vide its Note MoD DMA ID No. 19(3)/Navy/Policy/RoR/DMA-Estt (Per) dated 05 June 2023 to consider 09 officers as 'Fresh Look' officer.

From the above it is clear that IHQ of MoD (N) has not violated Policy concerning consideration of 'Fresh Look' officers in the promotion boards conducted in 2021 and 2022 in accordance with NO (Spl) 01/2012 as amended by IHQ MoD (N) letter dated 13.06.2017 and letter dated 21.08.2019.

48. The waiver sought by IHQ MoD (N) for Promotion Board No.1 held in 2023 to consider lesser number of officers as 'Fresh Look' officers only of SLY 2021 batch is in accordance with Note 2 of Para 12 of NO (Spl) 01/2012 and the case was duly processed to the competent authority to grant such a waiver to consider lesser number of 'Fresh Look' officers for PB No. 1 of 2023 and the same was duly approved by the competent authority vide its Note (MoD DMA ID No. 19(3)/Navy/Policy/ROR/DMA-Estt (Pers) dated 05.06.2023. IHQ MoD (N), therefore, has not violated any policy with respect to the number of officers to be considered as 'Fresh Look' officers in the PB No. 1 of 2021, 2022 and 2023.

49. In so far as the award of AVSM is concerned, it is clear that the award of such distinguished service medals is done through a rigorous process of recommendations at various levels right from the unit level through to Command HQ and thereafter a committee headed by the Vice Chief of Naval Staff at IHQ MoD (N). The names finally recommended by this Committee is sent to the CNS for his final recommendation which in turn are sent to the Ministry of Defence to be considered by a committee headed by the Raksha Mantri

which finally decides the officers who are to be awarded these distinguished service medals which includes AVSM also. It is also a fact that each service can recommend only a certain number of officers only as these awards are only awarded to officers for their distinguished services of a very high order. It is also a fact that all Rear Admirals or equivalent ranked officers in the other two services are not awarded 'AVSM' once they attain this rank. Hence, the expectation of the officer that he deserves to be awarded AVSM is not legitimate as very limited number of these awards are given on the *inter se* priority accorded by each service to their officers. It is also important to note that the applicant was subsequently awarded the AVSM in the year 2025. It is also important to note that there is no correlation between award of AVSM and the applicant's non-empanelment to the rank of VAdm and hence non-award of AVSM at a particular stage of his career has not caused any prejudice or harm to the applicant.

50. The PB No. 1 for RAdm (X/GS) for the year 2023 was held on 18.08.2023 and the ACC had approved empanelment of six officers, which was conveyed to IHQ MoD (N) by MoD/DMA vide its Note: MoD ID No.19(1)Navy/PB-

1(X/GS)/DMA -Estt. (Pers) dated 10.01.2024. The applicant has alleged that the names of the empanelled officers which is required to be promulgated Navy-wide through a signal called 'IG' as mandated by NO(Spl) 01/2012 was not done by IHQ MoD (N) and instead the empanelled officers were given their letter of appointments individually to take up their next appointment in the rank of VAdm and thereby the six empanelled officers were promoted secretly without disclosing it in public domain through promulgation of an 'IG' signal. This led to the applicant having come to know that he has missed his promotion very late and could not file his complaint or taking legal recourse in time to prevent miscarriage of justice.

51. The respondents have cited administrative difficulty in promulgating the I.G. and, therefore, the respondents chose to issue appointment letters for individual officers to take up their next assignment in the higher rank of VAdm. The respondents have stated that certain billets of VAdm were immediately lying vacant and it was prudent to issue the appointment letter instead of promulgation of an 'IG' signal. It is, however, observed by us that non-adherence to the NO (Spl)

01/20212 in not promulgating an IG signal of empanelled officer, has not in any way affected the applicant's selection process and such non-promulgation of an 'IG' signal by NHQ has at best delayed the applicant to file his RoG.

52. In so far as the non-empanelment of the applicant by the PB No. 1 is concerned, the applicant has been afforded three chances for consideration for his promotion from RAdm (X) to VAdm (X) as per the extant policies and the result of the three selection boards is tabulated below :

Sl. No.	PB No. 1 (Year)	No. of Vacancies	ACR Merit of the Applicant without VJ Marks	Applicant's OOM with VJ Marks	OOM of Last officer selected
1.	2021	05	7	9	5
2.	2022	03	9	8	3
3.	2023	06	19	19	6

53. From the above, it is clear that the applicant has not been empanelled due to his being low in *inter se* merit in all the three considerations afforded to him as per NO (Spl) 01/2012. It is also important to note that without even adding Value Judgment (VJ) marks, the applicant was low in *inter se* merit as compared to the last officer selected in all the three Selection/Promotion Boards.

54. We have also gone through the ACR dossier of the officer and do not find any bias shown by the then CNS whilst endorsing his CRs as SRO/NSRO. The applicant's CRs marks endorsed by the CNSs (there were three CNS during this period) as SRO/NSRO in his Flag rank prior to conduct of all three PB No. 1 conducted by IHQ MoD (N) are as follows :

Sl. No.	CR period	SRO (CNS as SRO)	NSRO (CNS)
1.	01.12.2022 to 31.07.2023	--	47
2.	01.08.2022 to 27.11.2022	--	47
3.	11.06.2022 to 31.07.2022	Non-Initiation of CR	
4.	16.12.2021 to 10.06.2022	--	47.5
5.	01.08.2021 to 13.12.2021	48	--
6.	11.06.2021 to 31.07.2021	Non-Initiation of CR	
7.	29.01.2021 to 12.05.2021	--	47.5
8.	01.08.2020 to 22.01.2021	47.5	--
9.	01.07.2020 to 31.07.2020	Non-Initiation of CR	
10.	12.09.2019 to 30.06.2020	48	--
11.	14.06.2019 to 11.09.2019	48	--
12.	14.06.2019 to 31.07.2019	Non-Initiation of CR	

Sl. No.	CR period	SRO (CNS as SRO)	NSRO (CNS)
13.	29.05.2019 to 13.06.2019	Non-Initiation of CR	
14.	14.03.2019 to 28.05.2019	Non-Initiation of CR	

55. From the above, it is clear that the applicant has been consistently marked in the bracket of '47 to 48' marks by CNSs as SRO/NSROs and there is consistency in his ACR marking by SROs(CNS)/NSROs throughout all the ACRs rendered on him as Flag Officer. We, therefore, find no bias by any SRO(CNS)/NSRO including the then CNS in awarding numerical grading to the applicant. There is, therefore, no merit in the allegation of the applicant about bias by the then CNS in purposefully downgrading his CR marks with a view not to promote the applicant to the next rank of VAdm.

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 Inflammatory 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 (Inflatory) 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.

57. In view of the above, the OA being devoid of merit is rejected and stands dismissed. However, in order to bring in more transparency in the process, the Naval HQ is directed as follows :

- (a) The provisions of Para 30 of Navy Order (Spl) 06/2023 be strictly adhered to and the 'IG' be promulgated of the empanelled officers on receipt of the necessary approval from the ACC/MoD.
- (b) The Naval Headquarters is also to promulgate through a letter, the list of officers who are to be considered for 'Op-Streaming Board' and also for

the officers to be considered for Promotion Board No. 1 through separate letters specifically stating the reasons for seeking such ACRs.

- (c) After going through the promotion board proceedings of the years 2021, 2022 and 2023 and also the statistics of the RAdm (X) who have been promoted to the rank of Vice Admiral (X) in the past, it is found that the officers who have tenanted the operational appointment in the Navy are usually promoted to the rank of Vice Admiral (X) and there are only three such appointments in the Navy which are operational appointments. It is thus observed that all the Rear Admirals (X) who do not tenant the operational appointment have very little chance to be promoted to the rank of Vice Admiral (X). It is, therefore, recommended that IHQ, MoD (N) expand its operational appointment billets in the rank of Rear Admiral (X) which can be considered as operational appointments, thereby they will have a greater pool of RAdm (X)

from which they can select officers for promotion to the rank of Vice Admirals (X).

58. Pending miscellaneous applications, if any, also stand closed accordingly.

59. There is no order as to costs.

Pronounced in open Court on this 19th day of August, 2025.


[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/ng/