

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

OA 1854/2025(OA 586/2021, RB Lucknow)

Sub Lt Ashish Kumar Pandey(Retd) Applicant
Versus
Union of India & Ors. Respondents
For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Neeraj, CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

Applicant, a discharged employee of the Indian Navy has filed this application and calls in question tenability of an order dated 08.07.2021 passed by the Competent Authority whereby the applicant has been discharged from service on the ground that he has not passed the required Specialized course in accordance to Regulation 126 {10(b)} of Chapter IV, Regs Navy Part III read in conjunction Section 15 of the Navy Act of 1957 and the Navy Order 21/15.

2. Seeking quashing of the aforesaid order and reinstatement in service, the applicant has filed this application. The applicant further wants that the relevant records pertaining to his commission, training, examination,

result, answer sheets etc., be summoned and examined by this Tribunal.

3. Facts in the nutshell indicate that the applicant was selected as a Short Service Commissioned Officer in the Indian Navy in General Service i.e., Electrical Branch as Sub Lt on 01.05.2019 thereafter he was commissioned on 01.07.2019. Between 01.07.2019 to 20.11.2019, the applicant underwent basic training at Indian Naval Academic, Ezhimala, Kerala. Thereafter in December 2019 he underwent Nuclear, Biological and Chemical warfare Defence Course at INS Shivaji. On 27.01.2020, he reported to participate in the training batch No. O-175 at INS Valsura. While undergoing the said training, he was hospitalized for about four weeks and thereafter resumed training on 18.03.2020. In the year 2020, lockdown was imposed due to COVID pandemic which lead to suspension of all academic classes.

4. It is the case of the applicant that ever since he joined the Indian Navy, he was discriminated and he was continuously humiliated by senior officers namely, Cmde Ajay Patney, Capt M. Navin and Cdr Madhav Damera. It was his contention that these officials had a sadist

disposition against him and are responsible for ruining his career. The applicant submits that he is one of the individual amongst many who have been victimized unnecessarily because of the autocratic tendencies of these officers. Various allegations are made with regard to the attitude of these officers in the matter of harassing the applicant. Cmdr Ajay Patney has been impleaded as respondent No. 3. It is the case of the applicant that despite being subjected to such harassment, the applicant attended all the classes sincerely and made every effort to obtain higher possible marks in the course. However, when he resumed training in March 2020 after recovering from his ailment, on account of nationwide lockdown imposed on 21.03.2020 due to COVID pandemic all the classes were suspended. The classes were resumed after the COVID pandemic when again the applicant was harassed by the officials. It is alleged that the applicant used to be called mentally unstable, he was constantly depressed and it was indicated that he will not become a fit sailor.

5. Even though it is the case of the applicant that he conducted and performed his training throughout in an outstanding manner but it was never appreciated by the authorities. In the meanwhile, a Board of Inquiry was also

initiated against the applicant at the instance of the respondent No.3. The proceedings of the Board of Inquiry conducted in a secret manner and the result of the Board was also not conveyed to the applicant. It is the contention of the applicant that in spite of all such harassment, he attended all the classes sincerely and made all possible efforts to clear the course with highest possible scores. However, the applicant was declared failed despite having given his best ever and was relegated to the Phase-I of next batch, i.e., batch No. O-176 with his juniors, which not only adversely affected his seniority but also his respect amongst his co-trainees.

6. The applicant is said to have appeared in the Common Test Equipment Examination conducted by Cdr Madhav Damera. Here again he was humiliated and even though the applicant narrated answers correctly but he was declared 'failed' deliberately by Cdr Madhav Damera. Making allegations against the manner in which he was treated, the applicant goes on to narrate that the applicant was deliberately declared 'failed' in the PGD examination. The applicant appeared in re-examination but was again declared 'failed'. Applicant has tried to indicate factors in his pleadings to say that the applicant was deliberately given lower marks

and he was not dealt with fairly. The applicant was relegated for the 2nd time in the course and thereafter a show cause notice was issued to him on 12.01.2021, wherein it was stated that the applicant's retention in service is not desirable as he is not showing progress in his academics and training therefore he is not worthy of retention in the interest of the Naval Service. Applicant submitted his reply to the show cause dated 12.01.2021 (annexure A-3), on 22.01.2021 vide annexure A-4, but without considering his reply, he has been deliberately discharged from service. Inter alia contending that the applicant's discharge is motivated by mala fide of officers, he has been illegally and arbitrarily discharged from service by adopting an unreasonable and discriminatory process.

7. Placing reliance on judgment of Hon'ble Delhi High Court in the case of Ex Recruit Manoj Deswal Vs. Union of India and Ors., (WP (C) 8400/2016) it is argued by learned counsel that the action taken against the applicant is in violation of the Article 21 of the Constitution of India. Reliance is also placed on the judgment of Hon'ble Supreme Court in the case of Delhi Transport Corporation v. D.T.C. Mazdoor Congress and Others (1990 SCR SUPP 1 142) and

various other judgments to say that in violation of Article 14 and 16 of the Constitution of India, in an unreasonable manner and in total disregard to the Navy Rules and Regulations, the applicant has been relegated twice in his training and subjected to discharge which is unsustainable in law. Reliance is also placed on a judgment of Hon'ble Supreme Court in the case of Union of India and Ors. vs. Flight Cadet Ashish Rai (AIR 2006 SC 1243) to say that the decision making process taken in the matter is unreasonable, irrational based on procedural impropriety and therefore the applicant should be permitted to be reinstated in service and the action quashed. The written submissions reiterating the same factors as are detailed in the pleadings have been brought on record by the applicant and the applicant argues that he has been denied access to his exam answer sheets and the answer sheets were evaluated in a wrong manner. He placed reliance on the judgment of Hon'ble Supreme Court in the case of CBSE v. Aditya Bandopadhyay (2011 8 SCC 497) and a judgment of this Tribunal in the case of Sub Lt Parvesh Tanwar v. Union of India and ors. (OA 34/2013) to say that the action taken against the applicant was unsustainable in law.

8. Respondents have refuted aforesaid contentions and argued that action taken against the applicant is in accordance with law, there is no illegality in discharge of the applicant. According to the respondents, the applicant completed his Bachelor of Technology in Electronics and Communication Engineering from Dr. APJ Abdul Kalam Technical University, Lucknow, subsequently he joined Indian Navy as a Short Service Commission (Electrical) Tech Scheme and thereafter was commissioned on 01.07.2019. The applicant was undergoing training in accordance with Navy Order 21/15 and the Regs Navy Part III, Chapter IV. With regard to training procedure, according to the respondents, *ab initio* training under Navy Order 21/15 is a course grouped under two heads, basic course and professional course. Basic courses provide basic academic qualification and orient trainees in naval culture and ethos and professional courses provide more in-depth knowledge on naval subjects. According to the respondents, professional course is further divided into major and minor courses. The applicant completed his initial basic course, namely, Naval Orientation Course at Indian Naval Academy, Ezhimala. After completion of basic course, the applicant reported at INS

Kolkata for afloat acquaintance for three weeks. After completion of the acquaintance, the applicant reported at INS Valsura on 26.01.2020 for undergoing the professional course, i.e., Electrical Specialisation Course (70.298, also referred to as O-175).

9. According to the respondents, during this specialization course at Valsura, the applicant was found 'unsuitable' and he was discharged from service in accordance to Para 30(a) of Navy Order 21/15 and Regulations 126 Para 10(b) of Regulations Navy Part III. Respondents in their counter affidavit have dealt in detail about the training pattern for Short Service Commission (Electrical) (SSC(L)) Tech and indicate that the basic course is conducted at INA Ezhimala for 22 weeks followed by professional course of 95 weeks at INS Valsura including 20 weeks of afloat competency and six weeks of leave. The performance of the applicant in the Naval Orientation Course at INA, Ezhimala is dealt with in Para 5 of the counter affidavit which reads as under:-

“5. Performance during Naval Orientation Course at INA, Ezhimala.

The applicant had undergone 22 weeks of Naval Orientation course at INA, Ezhimala in accordance with Navy Order 21/15. During Naval Orientation course, officer cadets are trained on aspects of military leadership, service rules and

regulations, seamanship, discipline and handling of small arms. The applicant completed the course with an overall score of 55.03%. It is pertinent that the officer cadet was ranked 102 out of 103 cadets in the course and scored 196/300 in officer like qualities. Therefore, the applicant's performance during Naval Orientation Course was below average IN 707 B form in respect of applicant is placed at Annexure A."

Structure of Electrical Specialisation (L Spl) Course is detailed in Para 6.

10. According to the respondents, in the counter affidavit details are given with regard to training to be undergone which includes Equipment oriented training in Phase II and III for a period of 18 and 14 weeks respectively and various other training course designed to train an officer to make him competent in the field of maintenance/repair of electrical weapon/sensors onboard ships/submarines and air squadrons in detail. Respondents in the counter affidavit have emphasized upon the pattern of the training and have indicated its importance for the naval services. Thereafter, in Para 11 and 12, the respondents have indicated the applicant's performance in the Specialisation Course (O-175) and Specialisation Course (O-176) and the details are indicated as under:-

"11. Performance of Applicant during Professional Training- Electrical Specialisation Course (O-175), Phase I.

Phase I of Electrical Specialisation course O-175 was conducted from 27th January, 2020 to 27th June, 2020. Pass marks in each subject is 55% and aggregate 60% to clear the semester/course I accordance to Para 15(a) of Navy Order 21/15 (copy of Navy Order 21/15 placed at Annexure B). During the duration of professional training in phase I of Electrical Specialization Course (O-175), the applicant had failed to qualify in seven subjects and therefore, was relegated in accordance with Para 21(a) ser (i) of Navy Order 21/15. Subsequently, the applicant was conjoined with the next course, Electrical Specialization Course (O-176).

12. Performance of Applicant during Professional Training-
Electrical Specialisation Course (O-176), Phase 1.

During Phase I of Electrical Specialisation Course (O 176), the applicant was covering the same subjects. Therefore, another chance was given to him to study and clear the repeat of Phase I. However, the applicant did not show any interest or endeavour to study and clear the Phase 1. Accordingly, the applicant failed to qualify in seven subjects (five main examinations and two re-examinations) and therefore, was liable to be relegated in accordance with Para 21 (a) ser (i) of Navy Order 21/15. This being his second relegation, the applicant was to be withdrawn from service in accordance with Para 30(a) of Navy Order 21/15 and Regulations 126 (10(b)) of Regs Navy Part III.”

11. Further in the detailed affidavit filed by the respondents running to more than 242 pages, the respondents have in detail not only indicated the short comings and other particulars with regard to training of the applicant but also bring on record the Regulations and other requirements in the training. Annexure-C at page 217 is the performance of

the applicant in various subjects of training and remarks given by the Competent Authority which indicates that the applicant failed in all the subjects, total 7 subjects in the examination.

FAILURE DETAILS OF APPLICANT

1. Slt Ashish Kumar Pandey (53372-Z)

Ser	PHASE	SUBJECT	MARKS	REMARKS
1	O-175 Phase I	Radar Engg. & EW	05/45	Fail
2		Communication Engg.	9.9/30	Fail
3		Sonar Theory	13/25	Fail
4		Signal Processing	7.2/20	Fail
5		Microwave Theory	08/30	Fail
6		Test Equipment & Instrument	23/50	Fail
7		Digital Control Devices	2.5/15	Fail
The applicant has failed in seven subjects and therefore was relegated iaw Para 21 (a) ser (i) Navy order 21/15.				
8	O-176 Phase I	PGD & PLN	10/45	Fail
9			18/45	Fail(re-exam)
10		Radar Engg. & EW	13.5/45	Fail
11			20/45	Fail(re-exam)
12		Sonar Theory	11/25	Fail
13		Surface Guided Weapon	09/30	Fail
14		Computer & IT	12.5/50	Fail
The applicant has failed in seven subjects (five main examinations and two re-examinations) and therefore was liable to be relegated iaw Para 21 (a) ser (i) of Navy Order 21/15. This being his second relegation, the applicant was to be withdrawn from service iaw Para 30 (a) of Navy Order 21/15 and Regulations 126 {10(b)} of Regs Navy Part III Accordingly, approval of IHQ MoD (N)/DNT vide letter TR/8006/VALSURA/P dated 08 Jul 21 was accorded for withdrawal of the applicant from Valsura and discharge from service on relegation for second time in Phase I of Electrical Specialization Course.				

It is the case of the respondents that the applicant did not take interest in clearing the subject and was not paying much attention. Failure in the major courses contemplates relegation under Para 21(a) of Navy Order 21/15 which reads as under:-

“15. Failure in Major Courses (Regulations for Relegation). Para 21(a) of Navy Order 21/15 (in instant case ser (i) is applicable) stipulates the following:-

(a) Trainees will be required to repeat the particular technical course/phase in the following conditions:-

- (i) Failure in three or more subjects.
- (ii) Failure in any subject in re-examination.
- (iii) Failure to obtain required minimum specified aggregate marks even after re-examination.
- (iv) For having missed more than 15 % of the training time in any particular phase/course on account of leave other than sick leave.”

And thereafter withdrawal and discharge from service under Para 30 of the Navy Order 21/15.

12. It is the case of the respondents that when the applicant did not fare well in the training and failed in the subjects in question, details of which have been given by the respondents in the counter affidavit. It is said on account of his repeated poor academic performance and in spite of repeatedly being

informed about his poor performance, the applicant did not show any improvement and was subjected to counseling and the counseling register is filed as annexure -D which indicates that detailed counseling was given to the applicant with regard to his conduct at the time of training and his failure in the training programme. It is the case of the respondents in the counter affidavit that all action at INS Valsura during the training have been taken in accordance to the promulgated set up of Rules and procedures of the Naval Order in question. It is stated that in Specialized Course, O-175, the applicant failed to qualify in 7 subjects and therefore he was relegated to course No. O-176. During first phase of Specialization Course of O-176, the applicant was covering the same subject therefore another chance was given to him to study and clear and repeat Phase I, however, the applicant did not show any interest and did not clear the phase I. The applicant failed to qualify again in the 7 subject, i.e., 5 main subjects and 2 re-examination. The respondents have in detail reproduced the conduct of the applicant in the training.

13. Respondents further submit that a Board of Officers was constituted to examine the answer sheets of the applicant

and to evaluate the same in a fair and consistent manner. The Board of Officers undertook diligent scrutiny of the answer sheets of the applicant and compared it with his counterparts to assess the quality of the answers and the Board of Officers concluded that the evaluation was fair and consistent and opined that the applicant lacks understanding of basic concepts when compared with his counterparts. The report of the Board of Officers is filed as annexure-F at page 233. It is the case of the respondents that based on all these factors the show cause notice was issued to the applicant and his submissions were considered and after analyzing the contention of the applicant, the respondents have, in a detailed counter affidavit, evaluated each and every aspect of the training undertaken by the applicant the various training phase, the instructors and the trainers to train the applicant and then the reports with regard to conduct of the applicant. The allegations made against Cdr Madhav Damera are denied by the respondents and they submit that these false allegations were made by the applicant only to cover up his incompetency and unsuitability. Respondents submit that action has been taken against the applicant in the matter in accordance with the rules and procedures and there is no

illegality, arbitrariness or irregularity in the matter of dealing with the applicant.

14. We have heard learned counsel for the parties at length and we have also taken note of the detailed submissions made by the respondents in a voluminous counter affidavit. The applicant has not filed any rejoinder/rebuttal to the bulky counter affidavit of the respondents. Apart from the provisions of the Navy Order 21/15, a detailed procedure has been laid down for the purpose of imparting training and the same is contained in Chapter IV of the Regulation of Navy, Part III read along with Section 5 of the Navy Act 1957 and Navy Order 21/15. Section 15 of the Navy Act contemplates the provision for tenure of service of Officers and Sailors and it contemplates that every officer and sailor shall hold office during the pleasure of the President, Subject to the provisions of the Navy Act and Regulations framed thereunder, as may be specified by the Central Government or the Chief of Naval Staff or any specified authority who may dismiss or discharge any Naval Officer or Sailor. Chapter IV of the Regulation for the Navy, Part III is a Chapter dealing with training and promotion of Subordinate and Junior Officers and Section 6 of this Regulation deals

with officers in the Engineering Branch on Short Service Commission.

15. Regulation 126 gives the details of the training and promotion of the officers in the Electrical Branch and it contemplates that the underlined provisions shall govern the entry, training and promotion of Officer granted Short Service Commission in the Naval Branch. Sub para 10 of Regulation 126 deals with 'Initial Training' and sub para (b) of the said Regulation reads as under:-

“(b) Those who pass in the examination shall be sent to sea for further training, where they will have to obtain a certificate of competency on completion of the sea training. Cases of failure in the examination shall be referred to the Chief of the Naval Staff, for consideration. Those who fail in the examination may, at the discretion of the Chief of the Naval Staff, be given further training in the subjects in which they had failed and be re-examined. Such of these officers who, in the opinion of the Chief of the Naval Staff, will not benefit by further training shall be discharged from the Service as being unsuitable. Those who fail in the examination at the second attempt shall also be discharged from the Service as being unsuitable.”

According to the respondents, the applicant was dealt with in accordance to these provisions. A perusal of annexure-C reproduced hereinabove, clearly shows that the applicant has failed in 7 subjects, 5 in the main examination and 2 in the

re-examination and therefore he was relegated in accordance to Para 21(a) of the Naval Order 21/15. This being his second relegation, the applicant was withdrawn from service and discharged.

16. A perusal of the details in annexure-C clearly shows that the applicant obtained very less marks in the examination and the subjects indicated in annexure-C. That apart, annexure-D from page 218 to 230 are the counseling of the applicant undertaken during the course O-175 -176 on various dates from 21.08.2020 to 05.11.2020. The details of the counseling given to the applicant by the counseling officer are indicated and thereafter the same has been read and understood by the applicant and he has affixed his signature. The counseling indicates that various assignments were given to the applicant, the applicant was advised to brush up his basic knowledge of Electrical Tech and the details of the counseling has been elaborated in the counseling register. It is not necessary for us to refer to each and every page in detail. Suffice it would be to take note of the counseling held on 10.09.2020 wherein, the counseling officer has dealt with the matter in the following manner:-

“1. While the officer has diligently prepared notes for all subjects and appears sincere in his efforts, he was unable to answer basic questions, the answers to which were already written by him in his notes. The question that he could not answer are:-

- (a) Difference between beam and beam width.
- (b) Inability to draw how a radar beam looks like.
- (c) Difference between monostatic and bistatic sonar (the answer was written by him in the notes he was carrying)
- (d) Definition and explanation of Lanz's law.
- (e) Unable to explain why there is no current shown in a multimeter, when connected to a socket of 15A.

2. The officer is unable to remember what he has studied and needs to be monitored for his performance. The officer has been advised to work on his ability to understand basic concepts of Electrical and Electronics engineering, as further phases would demand sound understanding of these subjects to Progress and efficiently/effectively discharge the duties of electrical officer onboard a warship.”

After explaining all these factors the applicant has put his signature and confirmed that he has read and understood all the comments and he has observed that he shall work upon the observations. Similar counselings have been held intermittently on more than 20 occasions between 21.08.2020 to 13.11.2020 and thereafter in the examination conducted, the applicant again failed as is evident from the results of the applicant which have been annexed along with the counter affidavit as annexure-G.

17. From the aforesaid, it is clear that the applicant was subjected to undergo the training course in accordance to the Statutory Regulation. He did not fare well in the training programme, he was subjected to counseling and in spite of the counseling he could not clear the examination and failed on both occasions. However, when the applicant made a complaint with regard to unfairness and arbitrariness in evaluating his answer sheets, a Board of Inquiry to scrutinize the answer sheets of the applicant was constituted which assembled in NCN Building, Jamnagar on 31.10.2020 and on subsequent dates. The Board of Officers consisted of three senior officers, namely, Lt Cdr Deepak Tomar, Lt Cdr Uttam Kumar and Cdr Vineesh Padki as members. The Board scrutinized the answer sheets of the applicant and the terms of reference for the Board in Para 3 of the Board proceedings reads as under:-

- “3. The terms of reference for the board were as follows:-
- (a) Scrutinise the answer sheets including those of re-examination of the officer in which he has failed to ascertain that the evaluation has been fair and consistent.
 - (b) Compare and comment on the answer sheets of the officer vis-à-vis of O-176, especially with those who have scored maximum and the officers who have scored bare minimum marks to pass the exam.

(c) Examine failure cards of the Officer, to verify if the officer has been counselled by Course Officer/O I/C and Training Captain on the implications of failure in academics.”

And the findings of the Board in Para 4 after evaluating answer sheets reads as under:-

“4. Findings of the Board.The board undertook detailed scrutiny of each answer sheet of the officer and few other answer sheets of officers of ‘L’ Specialisation course O-176 i.a.w the terms of references. The findings of the board are as follows:-

(a) PGD Main Exam and Re-exam. In addition to SLt Ashish Pandey’s answer sheets (Main and Re-Exam), answer sheets of SLt Gopal Pandurang Mahale (74/90), SLt Ananth Raghunath Narkhade (76/90), SLt Mukul Ranjan (52/90) and SLt Suhas Sharma (52/90) were scrutinsed. The findings of the board are enumerated below:-

- (i) The evaluation has been fair and consistent.
- (ii) There has been no lenient or harsh marking by the evaluator. Marking has been in consonance with the quality of answers.
- (iii) The questions are relevant and are in accordance with the lesson plan for the subject.
- (iv) It is opined that SLt Ashish Pande lacks understanding of basic concepts, when compared to this counterparts.

(b) Radar main Exam and Re-exam. In addition to SLt Ashish Pandey’s answer sheets, answer sheets of SLt Devesh Singh (22/45), SLt Avinash Kumar (37/45) were scrutinized. The findings of he board are enumerated below:-

- (i) The evaluation has been fair and consistent.
- (ii) There has been no lenient or harsh marking by the evaluator. Marking has been in consonance with the quality of answers.

(iii) The questions are relevant and are in accordance with the lesson plan for the subject.

(iv) It is opined that SLt Ashish Pande lacks understanding of basic concepts and principles of radar, when compared to his counterparts.

(c) Failure Cards. The failure cards of SLt Ashish Pandey have been scrutinized and it is confirmed that the officer has been counselled and advised by his course officer, Oi/Cs and the Training Captain each time he has failed in the subject and has been made aware of consequences of failing in exam and re-exams.”

18. From the aforesaid, we find that not only the answer sheets of the applicant from the main and re-examination but the answer sheets of 5 other officers who had participated in the main examination and the re-examination were evaluated and after comparing the same, the findings have been recorded. It is therefore a case where in the matter of taking action against the applicant a detailed procedure has been followed. The applicant's answer sheets were evaluated by a Committee of Senior Officers which not only compared the case of the applicant with other officers but went through the answer sheets in detail and recorded a finding to the effect that the applicant did not fare well in the examination. In our considered view, the law with regard to re-evaluation of answer sheets and the re-examination by a court of law is well settled. Re-evaluation of answer book is not a matter of

right. It has to be done only in the rarest of rare case where the court, *prima facie*, comes to the conclusion that there has been some error in evaluating the answer sheets.

19. The issue with regard to re-evaluation of answer book of an examination was considered by the Hon'ble Supreme Court way back in the year 1984 in the case of *Maharashtra State Board of Secondary Education Vs. Paritosh Bhupesh Kumar Seth etc* ((1984) 4 SCC 27). It has been held by the Hon'ble Supreme Court in the aforesaid case that normally evaluation of answer books are done by examiners and they apply certain uniform standards with checks, cross checks at different stage and measures are applied for detection of mala fide etc. Court should be extremely reluctant to interfere in such matters until and unless there are material available on record to show malpractice, illegality or unreasonableness or arbitrariness in the conduct of an examination. It is held that the Courts should be extremely reluctant to substitute its own view as to what is wise, prudent and proper in relation to matters concerning professional and technical examination, these are to be evaluated by the experts in the field and the Court should be very slow in interfering with such matters. In the present

case as already indicated hereinabove except for making bald allegations, the applicant has not substantiated his contention with regard to his harassment, mala fide in conduct of examination etc. with proof.

20. In this case, except for making bald and unsupported allegations with facts and proof, the applicant has not made out any case of mala fide or bias by or unreasonableness against any authority in the matter of arbitrariness, unreasonableness or bias against him. On the contrary, we find from the detailed counter affidavit filed by the respondents that not only the procedural requirements as per Regulations and Navy Order has been followed but after counseling the applicant was subjected to re-examination and thereafter on a complaint made by him, 3 Senior Officers assembled, scrutinized his answer sheets, evaluated it in comparison to answer sheets of seven more candidates and gave its conclusion to say that the applicant has not fare well in the examination. In the peculiar facts and circumstances of the case, merely on basis of vague and unspecified allegations of mala fide and biased, interference cannot be made in the matter.

21. Service in the Indian Navy that also in a technical job in the Electrical Branch needs high level of technical competency and expertise and a person cannot be put on such an important job onboard a ship without having sufficient technical knowledge. Once after having subjected the candidate to strict training process in accordance with Statutory Requirement, the candidate is subjected to detailed training course running to 25 to 30 weeks and when he fails in the examination conducted after the training, judicial review by a Statutory Tribunal does not permit this Tribunal to act as an appellate authority, sit over the decision of the Naval Authorities as if it is exercising appellate power and interfere into the action. Interference into such action can be undertaken in the rarest of rare case where mala fide, biased, arbitrariness or unreasonableness are apparent from the face of the record.

22. In the present case, we are satisfied on evaluation of the record that no such arbitrariness and unreasonableness is available and the applicant's case has been dealt with fairly. All reasonable opportunities were granted to the applicant, he was counseled, his complaints with regard to improper evaluation of his answer sheets were referred to 3 member

Board of officers. The officers evaluated the matter in a very reasonable and fair manner and there is nothing available on record to show that any biasedness or arbitrariness is present in the matter of dealing with the applicant. Accordingly, in the peculiar facts and circumstances of this case, we see no reason to interfere into the matter. The judgments relied upon by the applicant's counsel are clearly distinguishable on the facts and will not apply in the facts of this case and the procedure followed for taking action against the applicant.

23. Before parting, it would be appropriate to observe that even though the applicant had referred to various judgments to argue that because of the harassment and mala fide, bias etc. of the officers, particularly, respondent No.3, his right under Article 14 and 21 has been violated, he has been dealt in an arbitrary and unreasonable and his discharge is in violation of Article 14 of the Constitution of India, we find that the allegations so made are not established from the material available on record except for making vague and unspecified allegations without any material to substantiate the same, interference into the matter cannot be made by this Tribunal. As far as reliance upon the judgment of *Aditya Bandopadhyay (Supra)* is concerned, the same will not apply

in the facts and circumstances of this case for the simple reason that it is a judgment where the issue with regard to the principles laid down in the case of *Maharashtra State Board (supra)* with regard to applicability of the Right to Information Act in the matter of providing inspection/supplying certified copies of answer books has been considered. The same does not apply in the facts and circumstances of the present case.

24. In our considered view, we find no merit in the contentions advanced by the applicant and therefore, dismiss the application.

Pronounced in Open Court on this 16 day of March, 2026.



[JUSTICE RAJENDRA MENON]
CHAIRPERSON


[RASIKA CHAUBE]
MEMBER (A)

Priya