

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

O.A. No. 4788 of 2024

In the matter of :

Air Cmde S Jacob

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Shri Indra Sen Singh, Advocate

For Respondents : Shri Anil Gautam, Sr. CGSC

CORAM :

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

O R D E R

1. 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 read as under :

"a) Call for the entire official record of Respondents, leading to the rejection of the Applicant's statutory complaint dated 07.08.2023, and Statutory Complaint dated 26.09.2024, vide order dated 29.10.2024 and, after perusal thereof, set aside said impugned order dated 29.10.2024 (Annexure A-11, Pg-101);

- b) Call for the entire relevant original record, including the file notes, pertaining to Selection Board proceedings of PB-1A/2024 (Air Cmde to Air Vice Marshal) held in June 2024 leading to non-placement in Select List of the Applicant and placement in Select List of Respondent No.5 as published vide impugned order dated 24 July 2024 (Annexure A-1, Pg-48), and after perusal thereof, set-aside said Promotion Board proceedings including the result thereof as published vide impugned order dated 24 July 2024;**
- c) Call for the entire relevant original record, including the file notes, pertaining to the Review Promotion Board No. PB-1B/2019 (Gp Capt to Air Cmde) held in Jan 2024 and after perusal thereof declare that Respondent No.5 is ineligible for further consideration for promotion to the rank of Air Vice Marshal (AVM);**
- d) Call for AR-dossier/record of service of the Applicant as well as that of the Respondent No.5, and the file notes leading to the impugned act of Respondents whereby they have carried out downward moderation of the Applicant's Appraisal Report (AR) for the period 15 Jun 2023 to 30 Sep 2023 and 01 Oct 2022 to 14 Jun 2023 vis-a-vis the AR of Respondent No.5 for the same Reporting year, and after perusal thereof set-aside/quash said**

downward moderation carried out by Respondent No.3 and direct the Respondents to restore Applicant's original numerical grading awarded in said ARS;

- e) Call for the Respondents' unpublished AOP's Internal Directive on Review of Appraisal Report (AR) for Moderation, which gives unfettered discretionary power of downward moderation of ARs to the Air HQ/Chief of Air Staff, and after perusal thereof set aside said policy of Internal Moderation, the same being arbitrary and without jurisdiction;*
- f) Call for Applicant's dossier/record of service and after perusal thereof set-aside Applicant's downgraded/underrated and excessively moderated ARs for the period 24 Dec 2020 to 31 Aug 2021 and 01 Sep 2021 to 08 May 2022 vis-a-vis the AR of Respondent No.5 for the same Reporting year on the ground of inconsistency and subjectivity as the same are not being performance based;*
- g) Direct the Respondents to re-constitute & hold afresh PB-1A/2024 board, well before Applicant's retirement on 30 Apr 2025, in respect of the Applicant and other eligible officers of the Education Branch sans Respondent No.5, for promotion to the rank of Air Vice Marshal (AVM) against the single vacancy of AVM in the Education Branch of the*

Indian Air Force arising on 01 Dec 2024 and accordingly promote the officer placed in Select List from the same date with all consequential benefits; and

h) Issue any other order(s) and direction(s) as deemed appropriate by this Hon'ble Tribunal under the facts and circumstances of this case.

Prayer for interim relief :

That facts & circumstances brought out in Paras 4 & 5 above clearly bring out a prima-facie case in favour of the Applicant and balance of convenience also lied in his favour. In the Education branch of the Air-Force (to which the Applicant and Respondent No. 5 belong), there is only one vacancy of Air Vice Marshal (AVM) which would arise on 01.12.2024 due to superannuation of present incumbent on 30.11.2024. The Applicant is due for superannuation in his present rank on 30.04.2025. If the lone vacancy arising on 01.12.2024 is utilized by illegally promoting Respondent No. 5, then there will be no vacancy in the Education branch until the superannuation of Respondent No.5 on 30.08.2026.

But before that the Applicant would have already superannuated in his present rank of Air Cmde. Thus, an irreparable damage would be caused to the Applicant unless a status-quo is not maintained as on date pending final disposal of the instant OA. In view thereof, it is most humbly prayed that pending final disposal of the instant OA, this Hon'ble Court may be pleased to pass the following interim order: (a) Direct the Respondents to maintain status-quo in this case pending final disposal of the instant OA; (b) Pass any other interim order/directions as deemed appropriate by this Hon'ble Court.

(However, after hearing on the prayer for interim relief, the Tribunal vide order dated 20.11.2024 only observed that '*Promotion of respondent No. 5 and his taking charge of the post shall be subject to final decision of the matter*'.)

BRIEF FACTS

2. The applicant was commissioned in the Indian Air Force on 13.06.1992 in the Education Branch (Edn Branch) as part of the 90 Ground Duty Officers Course, and owing to his

outstanding performance and exemplary service record, he was promoted to the rank of Group Captain (Gp Capt) in the main list of PB-2/2013 with effect from 01.04.2013. Respondent No. 5 was promoted to the rank of Gp Capt in the Reserve List (Serial No. 2) of the same Promotion Board with effect from 21.11.2013, thereby ranking junior to the applicant in the order of merit and promotion.

3. It is the case of the applicant that in February 2019, Promotion Board PB-1B/2019 was convened for promotion to the rank of Air Commodore (Air Cmde) in the Edn Branch. Six officers, including the applicant and Respondent No. 5, fell within the 'Zone of Consideration' in accordance with the Air HQ Promotion Policy dated 30.12.2015 and were considered against three vacancies in the said Board in the rank of Air Cmde for the Edn Branch. Under the quantified selection system followed by the respondents for promotions to select ranks, 95% weightage is assigned to Appraisal Report (AR) marks and 5% to Board Marks (BM). In the said Promotion Board, the AR marks of three officers, including the applicant, were admittedly higher than those of Respondent No. 5. As per AR merit, Respondent No. 5 stood fourth and was, therefore,

outside the zone of selection for the three available vacancies. However, by awarding higher BM to Respondent No. 5 and correspondingly lowering marks of a higher merited officer, Gp Capt B.K.E. Jacob, he was brought into the select list in the third position under the influence as he was close to the then Chief of the Air Staff (CAS) and thus the respondents have acted arbitrarily and influenced by extraneous considerations, thereby impairing the sanctity of the selection process.

4. Aggrieved by his non-empanelment, said Gp Capt BKE Jacob challenged the promotion of Respondent No. 5 by filing an OA before the AFT RB Lucknow being OA No. 433/2019. During the pendency of the proceedings, the applicant was promoted to the rank of Air Commodore (Air Cmde) with effect from 01.10.2019 and Respondent No. 5 was promoted with effect from 03.02.2020. In January 2020, the applicant was nominated on merit-based selection to undergo the prestigious course at the National Defence College, whereas Respondent No. 5 was not nominated for the said course due to comparative inferior service credentials.

5. In the OA filed by Gp Capt BKE Jacob, the Lucknow Bench of AFT, vide order dated 05.07.2023, directed the respondents to convene a Review Promotion Board in respect of PB-1B/2019 (Education Branch). Though the respondents initially challenged the said judgment before the Lucknow Bench of the Allahabad High Court in a writ petition, they were ultimately compelled to comply with the order dated 05.07.2023 after initiation of contempt proceedings. Pursuant thereto, a Review Promotion Board was convened on 05.01.2024 and Respondent No. 5 was placed in the fourth position and consequently excluded from the Select List, thereby establishing that his earlier empanelment lacked merit and was unsustainable. Consequently, Gp Capt BKE Jacob was accordingly promoted to the rank of Air Cmde against the entitled vacancy. However, Respondent No. 5 having already been promoted was retained in the rank of Air Cmde despite the result of Review Board by creation of an additional vacancy thus perpetuating the illegality identified by the Review Board.

6. Subsequently, vide letter dated 07.06.2024, Air Headquarters drew a panel of Air Commodores of the

Education Branch for consideration by PB-1A/2024 for promotion to the rank of Air Vice Marshal (AVM) against a single vacancy arising on 01.12.2024 due to the retirement of AVM Rajeev Sharma, ACAS (Edn), Air HQ, on 30.11.2024. The panel included Air Cmde B.S. Hora, the applicant and Respondent No. 5. However, no formal intimation of the constitution of the said panel was provided to the applicant. Thereafter, PB-1A/2024 was convened on 25.06.2024. As Air Cmde B.S. Hora was due to retire on the same date on which the vacancy would arise, the competition was between the applicant and Respondent No. 5. The result of the Promotion Board was promulgated vide Air HQ Signal No. PO/262 dated 24.07.2024, placing Respondent No. 5 in the Select List.

7. Being aggrieved, the applicant submitted a Statutory Complaint dated 07.08.2024 to the CAS seeking cancellation of the impugned result and reconstitution of PB-1A/2024 excluding Respondent No. 5 from consideration. On receiving no decision within the stipulated period, the applicant submitted another Statutory Complaint dated 26.09.2024 to the Central Government/Raksha Mantri. According to the applicant, both the statutory complaints were rejected vide

order dated 29.10.2024 without due consideration of the substantive issues raised. Aggrieved thereby, the applicant has filed the instant OA seeking reliefs referred to in Para 1 of this order.

CONTENTIONS OF THE PARTIES

8. The learned counsel for the applicant contended that once the Review Promotion Board of 05.01.2024 placed Respondent No. 5 outside the Select List for promotion to Air Commodore, he ceased to hold a legally sustainable claim to that rank and that permitting him to continue in that rank, despite being found unmeritorious in review board, amounts to perpetuation of an illegality; and consequently, his consideration and empanelment for promotion to the higher rank of AVM is legally unsustainable. Relying on the judgements of Hon'ble Supreme Court in the case of Indian Council of Agricultural Research and Another Vs. T.K. Suryanarayan and Others [(1997) 6 SCC 766] and in the case of Union of India and Another Vs. Narendra Singh [(2008) 2 SCC 750] (Paras 32, 35 and 36), it has been argued that an officer illegally promoted must be reverted to his previous rank and cannot be allowed to retain or further benefit from such

promotion and that applying this principle of settled law to the instant case, Respondent No.5 was not eligible to be considered in PB-1A/2024 for promotion to the rank of AVM in Edn branch; that since Respondent No.5 was illegally promoted to the rank of Air Cmde, his further promotion to the next higher rank of AVM amounts to continuing the illegality and causing grave injustice and prejudice to other officers in the consideration panel including the present applicant.

9. The learned counsel further referred to the Promotion Policy for Air Rank dated 24.11.2020, particularly the definitions of "Zone of Consideration," "A Course," and "Similarly Placed Officers" and it has been contended that, pursuant to the Review Promotion Board, Respondent No. 5 lost seniority *vis-à-vis* the applicant and does not fall within any category entitling him to be arrayed with the applicant for PB-1A/2024 consideration.

10. The learned counsel further challenged the alleged excessive downward moderation of the applicant's ARs for the periods 01.10.2022 to 14.06.2023 and 15.06.2023 to 30.09.2023 and submitted that such moderation was

undertaken under an unpublished internal directive without concurrence of the competent authority, namely the Ministry of Defence, and without notice to the applicant or the reporting officers, thereby violating principles of natural justice. The learned counsel further submitted that during the period covered by AR of 15.06.2023 to 30.09.2023, the applicant served as Inspecting Officer at Sainik Schools Society under the Ministry of Defence and his performance was objectively assessed as "Outstanding" by the Initiating Officer and Senior Reviewing Officers, including senior civilian authorities. The subsequent downgrading of the said AR by the CAS, who had no direct supervisory role over the applicant's performance in that tenure, is arbitrary and without objective basis.

11. The learned counsel further contended that the applicant's downgraded AR for the period 24.12.2020 to 08.05.2022 and its excessive downward moderation by Respondent No. 3 *vis-a-vis* the AR of Respondent No. 5 for the same reporting year is inconsistent with applicant's overall profile as well as is subjective and not performance based. It has further been averred that earlier ARs of the applicant reflect instances of mechanical grading, including uniform

numerical ratings without adequate qualitative and meaningful differentiation suggesting arbitrariness and non-application of mind, which is contrary to the principles laid down by the Hon'ble Supreme Court in State of Punjab Vs. Gurdev Singh (AIR 1995 SC 111) and Rajendra Singh Verma Vs. Lt. Governor, NCT of Delhi (2011) 10 SCC 1, wherein it was emphasized that the writing of confidential reports entails a high degree of responsibility and must be undertaken with fairness, objectivity, and due care and responsibility.

12. The learned counsel for the applicant further referred to another judgment of Hon'ble Supreme Court in State of UP Vs. Yamuna Shankar Mishra & Anr. [(1997) 4 SCC 7], wherein it was held that the objective of writing ARs is to give an opportunity to a public servant to improve excellence; the officer entrusted with the duty and interest to write the ARs fairly and objectively while giving, as accurately as possible, the overall assessment of the performance of the ratee.

13. It is thus claimed that the applicant's non-empanelment for promotion to the rank of AVM and the empanelment of Respondent No. 5 are illegal, arbitrary, and contrary to settled

principles of service jurisprudence and the impugned actions have caused grave prejudice to the applicant's career prospects and warrant appropriate judicial intervention. The applicant accordingly prayed for grant of reliefs as prayed for.

14. The respondents, in their counter affidavit, submit that the applicant was considered by PB-1(B)/2024 as a first-time candidate; however, he was not empanelled owing to comparative merit; that aggrieved by his non-empanelment, the applicant submitted a statutory complaint/representation dated 07.08.2024 challenging both his non-selection and the promotion of Respondent No. 5, Air Cmde H.S. Sidana, alleging unfairness; thereafter, he preferred another statutory complaint/representation dated 26.09.2024 seeking early disposal of his earlier representation by the Central Government. It was submitted by the learned counsel for the respondents that both representations were duly examined in detail and were disposed of by the Chief of the Air Staff (CAS) vide letter dated 29.10.2024, the grievances having been found untenable; that the applicant preferred a statutory complaint dated 07.08.2024 against his non-promotion; the allegation that the complaint was arbitrarily dismissed without due

application of mind is emphatically denied; the complaint was considered in light of the Promotion Board proceedings and all relevant material on record, and the CAS was satisfied that the Board had been duly constituted, properly conducted, and had made its recommendations in accordance with the Promotion Policy dated 24.11.2020. It was concluded that no service wrong had been occasioned to the applicant and that he had not been deprived of any right or privilege and accordingly, the representation was disposed of vide Air HQ letter dated 29.10.2024 under Para 622(j) of the Regulations for the Air Force, 1964. It has also been contended that the applicant has not exhausted the statutory remedy available under Section 27 of the Air Force Act, 1950 and that under Para 622(j) of the Regulations for the Air Force, 1964, if an officer is dissatisfied with the decision at Air Headquarters, he may seek redress before the Central Government; the applicant neither conveyed dissatisfaction with the CAS's decision dated 29.10.2024 nor approached the Central Government, and instead directly filed the present OA before the Armed Forces Tribunal; and, therefore, in view of Section 21 of the AFT Act, which mandates exhaustion of statutory remedies, the OA is

stated to be premature and liable to dismissal on this count alone.

15. The learned counsel further submitted that the applicant had earlier been empanelled for the rank of Air Cmde by PB 1(B)/2019 (Education Branch); that in OA 433/2019 filed by Gp Capt BKE Jacob before the AFT, RB Lucknow, the present applicant and Gp Capt H.S. Sidana (Respondent No. 5 herein) were arrayed as Respondents No. 5 and 6, respectively. At that stage, the applicant did not raise any objection to the promotion of Gp Capt H.S. Sidana and thus now the present challenge to his promotion, raised at this belated stage, is barred by the principle of constructive *res judicata*. It is also contended by the learned counsel that the applicant never impugned his ARs for the periods 01.10.2022 to 14.06.2023, 24.12.2020 to 31.08.2021, and 01.09.2021 to 08.05.2022 in any earlier representation and challenging these ARs at this stage is thus untenable.

16. It has been clarified on behalf of the respondents that the policy of review of ARs at Air HQ has been instituted to rectify any variation, whether upward or downward, between the numerical grading awarded and the officer's five-year

average; that the policy is uniformly applicable to all Indian Air Force officers, without favour or discrimination, and the applicant's ARs were reviewed strictly in accordance with AFO 06/2012 and AFO 28/2023. The learned counsel further contended that the validity of such review has been upheld by the Tribunal in several cases, such as, (a) Gp Capt VT Parnaik Vs. Union of India [OA 600 Of 2010] dated 04.02.2011 (b) Gp Capt TM Rao Vs. Union of India & Ors. [OA 155 Of 2011] dated 06.01.2012 (c) Gp Capt RK Khattri Vs. Union of India & Ors. [OA 376 Of 2013] dated 15.01.2014 (d) Gp Capt NPS Taprial Vs. Union of India & Ors. [OA 724 Of 2019] dated 15.03.2019. The learned counsel also referred to order dated 10.12.2014 of AFT (PB) in the case of Sqn Ldr Neetu Nehere Vs. Union of India Ors. (OA No. 181 of 2012) wherein the issue of review of ACRs of officers of the Air Force was dealt with and it was observed that there is no arbitrariness or discrimination in the AOP's internal directives governing such reviews.

17. The learned counsel further submitted that promotion to the rank of Air Vice Marshal (AVM) in the Indian Air Force is governed by the Promotion Policy for Air Ranks dated 24.11.2020 issued by the Ministry of Defence; and as per Para

23 of the said policy, the Merit List is prepared by the Promotion Board on the basis of 'AR Marks' and 'Board Marks' in the ratio of 95:05, respectively, with the average of numerical gradings of ARs for the preceding ten years being taken into account; the guiding principles for awarding Board Marks are comprehensively stipulated in the policy. The learned counsel stressed upon that Promotion Board No. 1(A)/2024 (Education Branch) was conducted strictly in accordance with the said policy in a fair, transparent, and objective manner; that the applicant was considered as a first-timer but could not be empanelled due to comparative merit.

18. The learned counsel explained further that the appointments and postings are determined by the HR Department/P Branch after due consideration of multiple factors, including the officer's career profile, organizational requirements, availability of resources, employability, leadership qualities, and potential to shoulder higher responsibilities, as reflected in appraisal reports and staff appointments held; that posting profiles of officers cannot be identical, and each officer is assessed in the context of the appointment held by him; that the applicant's assertion that

he possessed a superior posting profile *vis-à-vis* Respondent No. 5 is stated to be a matter of personal perception, devoid of factual foundation; that Respondent No. 5 has also held significant appointments in the ranks of Gp Capt and Air Cmde and was duly assessed on his demonstrated performance. It has been submitted that the consideration panel issued vide Air HQ letter dated 07.06.2024 was duly communicated to all Command Headquarters, and the applicant was informed vide PO-2(D) letters dated 03.06.2024 and 13.06.2024 that he was being considered by Promotion Board No. 1(A)/2024. Therefore, in view of the above, the learned counsel for the respondents contended that there is no arbitrariness or discrimination on the part of the respondents and thus prayed for dismissal of the OA.

ANALYSIS

19. We have heard the learned counsel for the parties in detail and have also perused the records produced before us.

20. The main contention of the applicant in this case is that when Respondent No. 5 stood fourth in the Review Promotion Board dated 05.01.2024 i.e. PB-1B/2019 and was placed outside the Select List for promotion to the rank of Air Cmde,

his earlier empanelment should be rendered invalid and his continuance in the rank by creation of an additional vacancy amounts to perpetuation of illegality. It is not in dispute that Respondent No. 5 was initially empanelled in PB-1B/2019 and was thus promoted to the rank of Air Cmde and that pursuant to directions of the Lucknow Bench of the AFT, a Review Promotion Board was convened; that in the Review Board he was placed fourth and excluded from the Select List and that he was retained in the rank of Air Commodore by creation of an additional vacancy by the Air Force. The applicant relying upon the judgments of the Hon'ble Supreme Court in the case of *T.K. Suryanarayan (supra)* and *Narendra Singh's case (supra)*, contended that an illegal promotion cannot be perpetuated. While it is well settled that an illegal promotion cannot be perpetuated, however, in the present case, undisputedly Respondent No. 5 was not reverted to the Gp Capt rank pursuant to the Review Board, but his promotion was regularised by creating an additional vacancy in the rank of Air Cmde.

21. The competent authority, while complying with the directions of the Lucknow Bench of the AFT, corrected the

merit position for purposes of the original vacancy, however, Respondent No. 5 was allowed to continue in the rank of Air Cmde, by creating an additional vacancy and that action of the respondents/competent authority was not set-aside or declared invalid by any court of competent jurisdiction. Since he continued to hold the rank of Air Cmde, his eligibility for consideration to the higher rank (AVM) cannot be denied merely on the basis of the results of the Review Board where Respondent No. 5 stood fourth and stood outside the select list. As there is no administrative order or any direction from the court for reversion or declaring the promotion invalid, consideration of Respondent No. 5 in PB-1A/2024 cannot be held illegal on this ground.

22. Promotion to the rank of AVM is regulated by the Promotion Policy dated 24.11.2020; which stipulates that the assessment shall be based on a weightage of 95% AR marks and 5% BM. It is well settled that the scope of judicial review in matters related to promotion boards is limited in extent and is confined to cases where *mala fides* are established, breach of statutory provisions or the decision suffers from apparent arbitrariness. In the present case, the applicant has failed to

place on record any material to establish that the proceedings of PB-1A/2024 were invalid on any of the aforesaid grounds. The applicant was duly placed within the zone of consideration and was assessed on the basis of comparative merit in accordance with the prevailing policy.

23. It has already been clarified on behalf of the respondents that the policy of review of ARs at Air HQ has been instituted to rectify any variation, whether upward or downward, between the numerical grading awarded and the officer's five-year average and that the policy is uniformly applicable to all Indian Air Force officers, without favour or discrimination, and the applicant's ARs were reviewed strictly in accordance with AFO 06/2012 and AFO 28/2023. The validity of such review has been upheld by the Tribunal in several cases including Gp Capt VT Parnaik Vs. Union of India [OA 600 Of 2010] dated 04.02.2011 (b) Gp Capt TM Rao Vs. Union of India & Ors. [OA 155 Of 2011] dated 06.01.2012 (c) Gp Capt RK Khattri Vs. Union of India & Ors. [OA 376 Of 2013] dated 15.01.2014 (d) Gp Capt NPS Taprial Vs. Union of India & Ors. [OA 724 Of 2019] dated 15.03.2019 and also in Sqn Ldr Neetu Nehere Vs. Union of India Ors. (OA No. 181 of 2012)

wherein the issue of review of ACRs of officers of the Air Force was dealt with and it was observed that there is no arbitrariness or discrimination in the AOP's internal directives governing such reviews.

24. We have seen the selection board proceedings of Promotion Board No. 1(A)/2024 (EDN BRANCH) Air Cmde to AVM and the consolidated merit list is as follows :

CONSOLIDATED MERIT LIST : PB-1(A)/2024: HELD ON 25 JUN 24

(Arranged as per Over All Order of Merit (OOM) – Final Marks (FM))

EDN BRANCH : AIR CMDE to AVM

SI No.	Rank & Name	AR merit (a)	95% AR WTG (Max 95) (b)	Average Board Marks (Max 5) (c)	Final Marks (FM) (Max-100) (d)=(b)+(c)	Overall Order of Merit (Final Merit) (OOM-FM) (e)
1.	AIR COMDE HARJIT SINGH SIDANA	1	84.539	03.813	88.352	1
2.	AIR CMDE SAJI JACOB	2	84.508	03.271	87.779	2
3.	AIR CMDE BALJEET SINGH HORA	3	84.476	03.063	87.539	3

Sd/-
(Philip Thomas)
AVM
ACAS (PO)
Secretary”

We find that the applicant was second in the overall order of merit (OOM) as well as was 2nd in the order of merit in the AR marks. As there was only one vacancy in the rank of AVM, the

officer, namely, Air Cmde Harjit Singh Sidana, being first in the OOM list, was empanelled for promotion to the rank of AVM and as the applicant stood second in the OOM (Final Merit), he could not make it to the select list for the said promotion.

25. In the Armed Forces, promotion to higher ranks is essentially merit-based and comparative. Judicial interference is warranted only where there is clear violation of statutory provisions, proven *mala fides*, or manifest arbitrariness. On a comprehensive consideration of the material placed before this Tribunal, it cannot be said that any actionable service wrong or legal infirmity has been established in the conduct of Promotion Board No. 1(A)/2024 or in the consideration of Respondent No. 5 therein.

26. In view of the foregoing discussion and findings, the objections raised with respect to the eligibility and consideration of Respondent No. 5 are devoid of merit. The challenge to the moderation of the Appraisal Reports (ARs) is unsubstantiated and no case of *mala fides*, arbitrariness or breach of any statutory policy has been made out by the applicant.

27. Consequently, the O.A. No. 4788 of 2024 stands dismissed. There is no order as to costs.

Pronounced in open Court on this 11th day of March, 2026.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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

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