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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11524/2015 & CM No. 30495/2015**
BALJEET SINGH Petitioner

Through: Mr. Jaswant Persoya, Advocate.

versus

THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA & ORS Respondents
Through: Mr. Vikram Jetly, CGSC alongwith
Mr. Rishabh Wadhwa, G.P and Mr.
Arvind Chamol, Advocate for R-1 &
R-2.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **11.01.2016**

The petitioner is aggrieved by an order of the respondents whereby his Annual Performance Appraisal Report (APAR) for the year 2007-2008 is recorded as “average”.

The petitioner joined the Indo Tibetan Border Police Force (ITBP) in 2005. Apparently, he was posted and joined as Assistant Commandant in 15th Battalion where he was assigned a six-month job training on 31.05.2007. On 03.07.2007, he was issued a memorandum which recorded interalia as follow:-

“During the visit of D.G., I.T.B. Police you were posted at Phobrang with ‘E’Coy, 15th Bn. It was shocking that you had not visited any of the forward

posts of your Coy. While briefing to the D.G., ITBP, you were not aware about the facts of the deployment as well as other activities. It was indicative that you had not prepared at all for the visit of D.G. ITBP and took it very lightly. Such careless attitude is not expected from the officer who has just started his career. The state of your briefing was pathetic. D.G. has taken the cognizance of the lapses indicated above

2. You are hereby advised to work hard, visit all the posts under your command, abreast your knowledge of administration as well as operational requirement and know your Coy personnel by name. Failing which the matter will be viewed seriously.”

On 25.08.2008, the petitioner was told that the above features were to be treated as advisory and were recorded in the APAR. The petitioner was at a relevant time not considered and granted senior time scale on the basis of the said APAR grading. It was at that stage – he became aware that the APAR was recorded at “below bench mark grading”. This was by virtue of the letter dated 11.01.2011 issued by the ITBP. The petitioner represented against the APAR on 23.06.2013. This representation was rejected as devoid of merit.

It was contended by the petitioner’s counsel that the petitioner could not have been told after the issuance of the advisory that his APAR grading was below bench mark and recorded as “average”. Learned counsel contended that the so-called recording of the APAR was motivated. It was highlighted that the petitioner had reported to the 15th Battalion as a fresh recruit and could not be expected to be conversant with all the details. Naturally, when the Director General inspected the battalion, he was unable to reply to some queries.

This Court is of the opinion that the recording of the average APAR grading is ordinarily an executive decision based upon the appraisal of the competent officials and cannot be lightly interfered with by the Court under Article 226 of the Constitution. The facts here are that the APAR grading does not focus on the solitary event of the advisory issued to the petitioner; rather it covers the entire period from 01.04.2007-31.03.2008. Likewise, the petitioner's omission is a circumstance which might have impelled the respondents to grade him as they did- that it arose from lack of *bona fides* on their part is something the Court cannot infer. It is equally vague to assume that legal malice was involved in the said exercise- performance appraisals are too part of the normal duties assigned to superior officers. Finally, the fact that the petitioner was assigned duties, in a new posting, in the opinion of the Court could not absolve him of the duty to acquaint himself with the necessary details attached to the post.

In view of the foregoing, Court is of the opinion that there is no merit in the petition. It is therefore dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 11, 2016

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