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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of Decision: 21.08.2024***

+ W.P.(C) 11336/2022

COMDT. ANAND SINGH

.....Petitioner

Through: Mr. Anuj Aggarwal and Mr. Vikrant  
Chawla, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Abhishek Saket, SPC with Mr.  
Mohit Josi (GP)

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**J U D G M E N T**

**REKHA PALLI, J (ORAL)**

1. The petitioner, who is working as a Commandant in the Central Reserve Police Force (CRPF), has approached this Court under Article 226 of the Constitution of India, seeking quashing of adverse remarks/ grading in his Annual Performance Assessment Report (APAR) for the year 2016-17. Additionally, he seeks a direction to the respondents to upgrade of his aforesaid APAR to 'Very Good' and grant him all consequential benefits accruing to him as a result of the said upgradation.

2. The facts relevant for adjudication of the present petition as emerging from the record are that the petitioner was appointed as an Assistant Commandant on 22.05.1997 and promoted to the rank of Commandant on 11.07.2016. While the petitioner was serving as a Commandant, the respondents, based on the OM issued by the Department of Personnel and Training (DoPT) on 16.02.2009, issued a standing order no. 04/2015, laying



guidelines for timely preparation and proper maintenance of APARs.

3. In accordance with the timelines provided in the standing order, the petitioner submitted his self appraisal form for the year 2016-17 to the Reporting Officer. Although the standing order required the Reporting Officer to forward his report to the Reviewing Officer by 30.06.2017, he forwarded the APAR with the grading of 'Below Good', to the Reviewing Officer only on 09.08.2017. The Reviewing Officer, however, did not endorse his remarks at that stage, and the APAR appears to have been forwarded directly to the Accepting Officer, who like the Reporting Officer graded the petitioner as 'Below Good' on 25.09.2017. The APAR was then forwarded to the Reviewing Officer, who, in his remarks endorsed on 11.10.2017, graded the petitioner as 'Very Good'.

4. Since the Accepting Officer's 'Below Good' remark was considered as the final grading for the APAR and was adverse, the petitioner on 23.02.2018 submitted a representation to the Director General, CRPF, which was rejected. The petitioner then submitted a representation on 19.02.2019 to the Ministry of Home Affairs which came to be rejected on 15.04.2019. This was followed by yet another representation by him in January 2020, which has remained undecided till date. Being aggrieved, the petitioner invoked the extra ordinary jurisdiction of this Court under Article 226 of Constitution of India.

5. In support of the petition, learned counsel for the petitioner submits that though there are various infirmities in the recording of the impugned APAR, the same is liable to be set aside solely on the ground that the Accepting Officer had endorsed his remarks on the APAR even before the Reviewing Officer had given his grading. This procedure, he submits, was



not only contrary to the laid down procedure, which required the Accepting Officer to endorse his remarks only after both the Reporting Officer and Reviewing Officer but has even otherwise caused grave prejudice to the petitioner. This, he contends was because the Reviewing Officer's grading of 'Very Good' was not available with the Accepting Officer, who had, therefore, simply accepted the grading of 'Below Good' given by the Reporting Officer.

6. By drawing our attention to the impugned APAR, he submits that the Reporting Officer endorsed his remarks and grading of 'Below Good' on 09.08.2017, which the Accepting Officer accepted on 25.09.2017. The Reviewing Officer then endorsed his 'Very Good' grading on 11.10.2017, which grading was never placed before the Accepting Officer.

7. He submits that the petitioner has always been a decorated officer with several medals to his credit and has been wrongly downgraded from 'Very Good' to 'Below Good' thereby impacting his promotional avenues and future prospects. Moreover, the respondent no.2 passed a non-speaking order on the petitioner's representation without addressing any of his contentions. He, therefore, prays that the Accepting Officer's grading be quashed and the 'Very Good' grading given by the Reviewing Officer for the APAR 2016-17 be treated as final. Alternatively, he prays that the impugned APAR itself be set aside.

8. *Per contra*, learned counsel for the respondents seeks dismissal of the writ petition by *inter alia* urging that the Accepting Officer's signatures on the APAR dated 25.09.2017 are in fact those of the Reporting Officer but have been wrongly recorded as that of the Accepting Officer. He, therefore, contends that the laid down three-tier channel was followed in the recording



of the impugned APAR, the Accepting Officer had endorsed his remarks only after both the Reporting Officer and the Reviewing Officer had given their respective gradings. He, therefore, prays that the writ petition be dismissed.

9. Having considered the submissions of learned counsel for both the parties, we find that the sole issue requiring consideration is the date on which the Accepting Officer endorsed his grading on the impugned APAR. The petitioner contends that the Accepting Officer endorsed his grading before the Reviewing Officer's 'Very Good' grading while the respondents argue otherwise. To appreciate these conflicting claims, it is necessary to examine the relevant extract of the APAR, which reads as under:

Page- 8 APAR FOR THE PERIOD FROM 24/8/2016 TO 31/12/2016

नाम Name अजय सिंह  
रैंक Rank कमाण्डेंट-84 बटा  
इसला IRLA 4453

भाग-5  
Part-5

**(a) PEN-PICTURE OF THE OFFICER REPORTED UPON BY REPORTING OFFICER**  
(The Reporting Officer is required to indicate his comments on the overall qualities of the officer including areas of strengths and lesser strength and his attitude towards the weaker section and also drawing attention to the qualities if any not covered by entries above)

He has not taken care of welfare of his unit personnel as ORs Mess purchases were on very high prices. He has also not produced the true and fair statements with regard to utilization of indoor works funds. Under his command, there were complaints from unit personnel regarding harassment by HC/GD Satpal, BHM (the then). He has also not stayed at Dest Hqrs 84 Bn Boom AOR where 6 Coys were deployed, to supervise their duties. His overall performance is graded as **Below Good**. He has not performed to such an extent to be given an independent command. (Copy attached as Appendix-B,C,D)

**(b) Grading (on a score of 1-10)**  
(A+B+C)  $1.53+1.2+1.2=3.93=0$

Place: Jammu  
Date: 3.08.2024

Signature of Reporting Officer  
(Name in block letters)  
SHAKESH SETHI  
(Rank)  
DIG (OPS) JAMMU NORTH

(Emphasis supplied)



नाम Name आनन्द सिंह  
रैंक Rank कमण्डेन्ट-84 बटा  
इरला IRLA 4453

भाग-7

Part-7

ग्रेडिंग (भाग 4(i) (ii) एवं (iii) में दिए गए अंकों के अनुसार दिया जाए)

Grading (to be awarded according to total marks given in part-4(i) (ii) &amp; (iii))

|                                                                                  | उत्कृष्ट<br>Outstanding | बहुत अच्छा<br>Very Good | अच्छा<br>Good | अच्छा से नीचे<br>Below Good |
|----------------------------------------------------------------------------------|-------------------------|-------------------------|---------------|-----------------------------|
| रिपोर्ट लिखने वाले अधिकारी द्वारा<br>ग्रेडिंग<br>Grading by Reporting<br>Officer |                         |                         |               | ✓                           |
| पुनरीक्षण अधिकारी द्वारा ग्रेडिंग<br>Grading by Reviewing<br>Officer             |                         | बहुत अच्छा<br>कुम्भीप   |               |                             |

कुम्भीप 11/10

(रिपोर्ट लिखने वाले अधिकारी के हस्ताक्षर)  
(Signature of Reporting Officer)

नाम  
Name (राकेश सेठी) 9.8.2017  
(RAKESH SETHI)  
पदनाम पुलिस उप महानिरीक्षक (परि०) जम्मू नार्थ  
Designation DIG (OPS) JAMMU NORTH  
दिनांक  
Date.....

(पुनरीक्षण अधिकारी के हस्ताक्षर)  
(Signature of Reviewing Officer)

नाम कुम्भीप धर  
Name  
पदनाम पुलिस महानिरीक्षक  
Designation  
दिनांक  
Date.....

(Emphasis supplied)



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नाम Name Anand Singh  
रैंक Rank Commandant  
इसका IRLA - 4453

भाग-8  
Part-8

स्वीकृति प्राधिकारी की अभ्युक्ति व ग्रेडिंग:- (बताएं कि क्या आप रिपोर्ट लिखने वाले अधिकारी/पुनरीक्षण अधिकारी की अभ्युक्ति से सहमत हैं। असहमति व आंकलन स्तर कम करने की स्थिति में कारण दें)  
Remarks and Grading of Accepting Authority: (State whether you agree with remarks of Reporting Officer / Reviewing Officer Give reasons for disagreement and downgrading of assessment (if any))

Allegations of corrupt practices in procurement of mess items and other official procurement were proved against him in preliminary enquiry. His integrity is doubtful. Performance is below good.

अंतिम ग्रेडिंग (शब्दों में लिखें और टिक मार्क से न दर्शाएं)  
Final Grading (To be written in words and not to be indicated by tick mark)

|               |             |
|---------------|-------------|
| उत्कृष्ट      | Outstanding |
| बहुत अच्छा    | Very Good   |
| अच्छा         | Good        |
| अच्छा से नीचे | Below Good  |

(स्वीकृति प्राधिकारी के हस्ताक्षर)  
(Signature of Accepting Authy.)

नाम  
Name (एम एन श्रीवास्तव) भा.पु.जी.  
(S N. SHRINASTAVA), IPS  
पदनाम  
Addl. DG, J&K Zone  
Designation  
CRPF, Bantala, Jammu  
दिनांक  
Date: 25/9/2017

(Emphasis supplied)



10. From a bare perusal of the aforementioned, it is evident that the Accepting Officer endorsed his remarks much before the Reviewing Officer had given his remarks/grading. The impugned APAR of the petitioner for the period in question was written by his Reporting Officer, Sh. Rakesh Sethi, DIG (OPS) CRPF, Jammu North who graded him as 'Below Good' with adverse remarks on 09.08.2017. His Reviewing Officer Sh. Kuldeep Dhar, IG had reviewed this APAR and graded him as 'Very Good' on 11.10.2017. However, the petitioner's Accepting Officer, Sh. S. N. Shrivastav, ADG, had already graded the petitioner as 'Below Good' on 25.09.2017, accepting the grading given by the Reporting Officer. This endorsement by the Accepting Officer was made without awaiting the comments of the Reviewing Officer i.e., Sh. Kuldeep Dhar. Thus, it emerges that the Accepting Officer proceeded to record his grading and observations solely on the basis of the comments / grading given by the Reporting Officer. The petitioner is, therefore, correct in urging that the assessment by the Accepting Officer was in violation of the procedure prescribed under the standing order, which mandates that the APAR must be forwarded for the Accepting Officer's assessment after the assessment is made both by the Reporting Officer and the Reviewing Officer.

11. In our considered view, this provision for the Accepting Officer to endorse his remarks on the APAR only after the assessment is made by both the Reporting Officer and the Reviewing Officer ensures that before the Accepting Officer makes his assessment, he has the advantage of the views expressed both by the Reporting Officer as also the Reviewing Officer. In the present case, since the Accepting Officer gave the grading of 'Below Good' by accepting the grading of 'Below Good' given by the Reporting



Officer, we find merit in the petitioner's plea that had the grading of 'Very Good' endorsed by the Reviewing Officer, also been available before the Accepting Officer, his assessment may have been different.

12. In the light of the aforesaid, we have no hesitation in holding that the assessment made by the Accepting Officer being contrary to the laid down procedure cannot be sustained and is accordingly set aside. Having set aside the assessment made by the Accepting Officer, the question before us now is whether the grading of 'Very Good' given by the Reviewing Officer, as prayed for by the petitioner, should be treated as final. Having given our thoughtful consideration to this issue, we are of the opinion that in the peculiar circumstances of the present case, when the assessment made by the Reviewing Officer was also violative of the procedure laid down in the standing order no. 04/2015, the said assessment can also not be sustained. We are, therefore, of the considered view that the assessment of both the Reviewing Officer as also the Accepting Officer are liable to be set aside.

13. Once the assessment by both the Reviewing Officer and the Accepting Officer are found to be unsustainable, the only assessment which is in accordance with the Standing Order is that of the Reporting Officer. In such a situation, when we have assessment by only the Reporting Officer, we would have normally remanded the APAR back to the Reviewing Officer and the Accepting Officer for their *de novo* assessments. However, we are informed that both these officers already stand superannuated and therefore, the matter cannot be remanded back to them.

14. In these circumstances when as against the laid down three tier system for recording of APARs, we are left with only one valid assessment i.e. the assessment by the Reporting Officer, we have no other option except to set



aside the impugned APAR itself. Any other course of action would imply that the assessment made by a single officer has to be accepted, which in our view would not only be violative of the standing order but also cause grave prejudice to the petitioner, who has alleged bias on the part of the Reporting Officer.

15. For the aforesaid reasons, the writ petition deserves to succeed. We accordingly allow the writ petition by setting aside the impugned APAR of the petitioner for the year 2016-2017. The respondents are directed to grant all consequential benefits including consideration for promotion and other service benefits to the petitioner by ignoring the impugned APAR.

16. The writ petition is allowed in the aforesaid terms.

**(REKHA PALLI)**  
**JUDGE**

**(SHALINDER KAUR)**  
**JUDGE**

**AUGUST 21, 2024**  
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