



2025:DHC:623-DB



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

Reserved on: 22.01.2025

Pronounced on: 03.02.2025

+ W.P.(C) 11606/2019
SH. SANDEEP DHAKAPetitioner
Through: Mr.Pushpendra Kr. Dhaka,
Mr.Abhishek Kumar &
Mr.Harsh Dhaka, Advs.
versus

UNION OF INDIA AND ORS.Respondents
Through: Ms.Barkha Babbar, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioner, challenging his Annual Performance Appraisal Report ("APAR") for the assessment period 21.06.2015 to 31.03.2016, which grades the petitioner as "Good". The petitioner further challenges the Order dated 05.03.2018 passed by the respondent no.5 rejecting his representation against the Impugned APAR.

2. It is the case of the petitioner that the petitioner joined the Central Reserve Police Force ("CRPF") on 23.03.2013, and was posted at 206th, Commando Battalions for Resolute Action (in short, "CoBRA"), which is involved in dealing with naxalites.



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The petitioner states that barring the Impugned APAR, he has always been assessed as “Very Good” or “Outstanding”. He submits that even during the period in question, the petitioner had carried out, with his team, more than 50 anti-naxalites operations successfully without any casualty and had apprehended most wanted naxalites on whom the government had declared awards. The petitioner alleges that even in the Impugned APAR, the Reporting Officer himself states that the petitioner has executed the work responsibly and is a hard-working officer, however, the petitioner has been downgraded which shall have an adverse effect on his career progression.

3. The learned counsel for the petitioner, placing reliance on the Office Memorandum dated 14.05.2009 issued by the Department of Personnel and Training (“DoPT”), submits that APAR has an important role in service matters and, therefore, must be written with utmost care. He submits that as in the present case, the Pen Picture and the numerical grading recorded in the APAR do not match, the same are liable to be set aside. In support of his submissions, he places reliance on the Judgments of the Supreme Court in *Sukhdeo vs. The Commissioner Amravati Division*, (1996) 5 SCC 103; *State of UP vs. Yamuna Shanker Mishra and Another*, (1997) 4 SCC 7 and the Judgment of this Court in *Sanjeev Dhundia vs. Union Of India & Ors.*, 2020 SCC Online Del 1842.

4. The learned counsel for the petitioner further submits that the only possible reason for downgrading the petitioner appears



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to be that he did not complete the army training. He submits that the same could not have been taken into consideration while writing the Impugned APAR, as this was for a period prior to the period of the Impugned APAR.

5. On the other hand, the learned counsel for the respondents submits that the Reporting Officer and the Accepting Officer graded the petitioner after examining and overlooking his performance during the period covered by the Impugned APAR. She submits that the APAR for a particular period cannot be doubted only because of the APAR recorded for the previous or the subsequent period. She submits that the respondent no.5 before rejecting the representation of the petitioner against the Impugned APAR had called for the comments from the Reporting and the Accepting Officer and having considered the same, found no reason to disagree with their assessment of the performance of the petitioner. She submits that, therefore, there is no merit in the present petition and the same deserves to be dismissed.

6. We have considered the submissions made by the learned counsels for the parties.

7. At the outset, we would note that an APAR performs a very vital function for not only the assessment of an officer for his career progression, but also to inform him of his shortcomings and areas where he needs to improve. The aim of writing APARs is to have an objective assessment of an individual's professional and personal qualities, competence,



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personality, integrity, and employability, and to provide the individual appropriate feedback and guidance for correcting his deficiencies, and to improve his performance to serve the interest of enhancing efficiency of the Force. The assessment report of a Government employee is a privileged document, which involves a tremendous responsibility on the part of the Reporting and the Reviewing Authorities, and therefore, it is essential that the APAR is filled with due care and attention, and that the said task is not casually undertaken.

8. While writing the APAR, the Reporting and the Reviewing Authorities are required to make an analysis with respect to assessment of work output, personal attributes, and functional competency of an individual, for which they are required to grade them on a scale of '1' to '10', and different weightage is provided for the assessment of the abovementioned sections. The Reporting and the Reviewing Authorities should ensure that the grading is balanced and not recklessly made in an irresponsible manner.

9. The assessment of the performance also requires a Pen Picture of the individual with regard to the performance, conduct, behavior, and potential of such individual, keeping in mind the distinction between what is a fact and what is an opinion. Further, there should be definite correlation between the Pen Picture of the officer in question and the marks allotted to him in various attributes. The Pen Picture should not be sketchy and too brief, rather, it should amply describe the



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qualities and shortcomings of an officer, so that one is able to make out the personality, potential, character, attitude, intelligence, industry, aptitude etc., of the same. The Pen Picture should include the reasons for awarding lower than average marks by the Reporting and Reviewing Authorities. In addition, the Reporting Authority and the Reviewing Authority are required to refer to various inspection reports prepared periodically while endorsing their remarks on the APAR of an officer.

10. In the present case, the Impugned APAR records the agreement of the Reporting Officer to the Self Appraisal made by the petitioner. It also states that the petitioner is honest and his integrity is beyond doubt; has a positive attitude towards the welfare of his subordinates and shows interest in their living, comfort, convenience/welfare and sports; is fully competent to detect the misconducts of the subordinates and is fully qualified in planning the training of his subordinates. However, in spite of the above attributes, the Impugned APAR gives him average marks towards the assessment of work output, personal attributes and functional competency. Not only this, the Pen Picture given by the Reporting Officer also does not match the numerical assessment of the petitioner. We reproduce the relevant portions of the Impugned APAR as under:



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Translation of Relevant portion

40

Name	Sandeep Dhaka
Rank	Assistant Commandant
IRLA	9740

PART-III (Appraisal)

(To be filled in by the Reporting Officer)

1.	Do you agree with the resume of work as indicated by the office and particular regarding the special achievements, if any, mentioned by the officer? If not, indicate briefly the reasons for disagreement and the extent of disagreement.	I Agree
2.	Integrity (Please see note attached at the end of this form)	Honest and beyond doubt
3.	Welfare Please comment on the officer's concern for the welfare of his subordinates and his achievement in this field.	The officer has a positive attitude towards the welfare of his subordinates and shows interest in their living, comfort, convenience/welfare and sports.
4.	Ability to detect and expose malpractices of subordinates.	The officer is fully competent to detect the misconducts of the subordinates
5(a)	Attitude towards scheduled casts /Scheduled Tribes /weaker section of society (Applicable in case of officers dealing with the development and protection of scheduled caste or/and scheduled tribe and weaker section of society)	The officer is aware of the developments, security and problems of SC/ST and backward classes of the society and has positive attitude.
5(b)	Attitude towards woman (Including women officers and personnel of the force)	Found having respectful positive attitude
6	Health	Shape "A" according to year 2016 Report.
7	Training Here comment upon the officer's ability to plan and organise the training of his subordinates. Specific area of training required by officer towards his capacity building	The officer is fully qualified in planning the training of his subordinate. ARCF grading MA. The officer was sent back from Army course to not being able to complete the course.

---sd---

Signature of reporting officer with Date
 NARESH KUMAR COMMANDANT 206 COBRA
 4/04/2016

True Translation

Signature Not Verified

Digitally Signed
 By: SUNIL
 Signing Date: 04.02.2025
 16:55:41

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नाम Name	संदीप डाका
रैंक Rank	सहायक कमाण्डेंट
ईरला IRLA	9740

भाग-4
Part-4

(i) Assessment of Work output (weightage to this section would be 40 %)

	Reporting Authority	Reviewing Authority	Initial of Reviewing Authority
(i) Accomplishment of planned work/work allotted as per subjects allotted	5	5	} <i>Prin</i> 02/5/16
(ii) Quality of output	5	5	
(iii) Analytical ability	5	5	
(iv) Accomplishment of exceptional work/unforeseen tasks performed	5	5	
(v) Knowledge of sphere of work	5	5	
(vi) Innovative ability to enhance Ops performance	5	5	
Total Score (X)	30	25	
Average Score = $X/6=Y$	5.00	4.83	
Weightage 40% = $Y \times 0.4=A$	2.00	A1= 1.93	
A			

(ii) Assessment of personal attributes (weightage to this Section would be 30%)

	Reporting Authority	Reviewing Authority	Initial of Reviewing Authority
(i) Attitude to work	5	5	} <i>Prin</i> 02/5/16
(ii) Sense of responsibility	5	5	
(iii) Maintenance of Discipline	6	6	
(iv) Communication skills	5	5	
(v) Leadership qualities	5	5	
(vi) Capacity to work in team spirit	6	6	
(vii) Capacity to work in the time limit	6	6	
(viii) Inter-personal relations	5	5	
(ix) Aptitude and potential	5	5	
(x) Courage-physical and moral	6	6	
Total Score (X)	54	54	
Average Score = $X/10=Y$	5.40	5.40	
Weightage 30% = $Y \times 0.3=B$	1.62	B1= 1.62	
B			

Certified True Copy

Signature Not Verified

Digitally Signed
By: SUNIL
Signing Date: 04.02.2025
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(iii) Assessment of functional competency (weightage to this Section would be 30%)

	Reporting Authority	Reviewing Authority	Initial of Reviewing Authority
(i) Knowledge of Rules/Regulations/Procedures in the area of function and ability to apply them correctly	5	5	}
(ii) Strategic planning ability	5	4	
(iii) Decision-making ability	5	5	
(iv) Co-ordination ability	5	5	
(v) Ability to motivate and develop subordinates	5	5	
(vi) Initiative	5	5	
Total Score (X)	31	30	}
Average Score = $X/6 = Y$	5.17	5.00	
Weightage $30\% = Y \times 0.3 = C$	1.55	1.50	
C	1.55	1.50	

(रिपोर्ट लिखने वाले अधिकारी के हस्ताक्षर)
(Signature of Reporting Officer)
NARESH KUMAR
दिनांक 02/05/2016
Date: 02/05/2016

पु.प्र.सि. (पटि)
DIGP (OPS)
लेफ्टिनेंट, पोस्टल (अ.प्र.)
(Signature of Reviewing Officer)
दिनांक - 02/05/2016
Date - 02/05/2016

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नाम Name	सुदीप कुमार
पैक Rank	सहायक कमिश्नर
इरला IRLA	9740

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)

एक उत्तम मान्य युवा कर्मचारी है। अपने सौंपे गए कार्यों को सार्थक स्वरूप में कर उसे जिम्मेवारी के साथ निभाले है। समय-समय पर बढाविलेन में होने वाले विभिन्न कार्यक्रमों में अपना भरपूर योगदान देकर सफलतापूर्वक सम्पन्न करने में सहयोग करते है। अधिकारी को नियम एवं कार्यपद्धति का बहुत अच्छा ज्ञान है। अधिकारी सभी को साथ अपने कनिष्ठों, समक्षी एवं वरीष्ठों के साथ मिलकर कार्य करने में दक्ष है। अधिकारी को प्रशासनिक श्रद्धाओं का ज्ञान अच्छा है। तथा प्रशासनिक कार्यों के निष्पादन में अपने अधिनस्थों को निर्देशन एवं मार्गदर्शन देने में परिपूर्ण है। अधिकारी का कार्य एवं व्यवहार मेरे अधीन की गई सेवा अवधि के दौरान 'अच्छा' पाया गया है।

b) Grading (on a score of 1-10)
(A + B + C)

2=1.62+1.55=5.17

Date 10/04/2016

Place- 206 C&BRA Bhandara

Signature of Reporting Officer
(Naresh Kumar)
Commandant-206 C&BRA
Bhandara-206 C&BRA
COMMANDANT-206 C&BRA

Certified True Copy

11. The Reviewing Officer simply agrees with the assessment of the Reporting Officer and, in fact, states that the Reporting Officer has given a 'correct Pen Picture'.

12. The above would clearly show that the numerical gradings granted to the petitioner do not match with the Pen Picture or the other assessments of the petitioner made by the Reporting Officer.

13. We have not been shown any cases of warning or other displeasure, etc., being communicated to the petitioner during the relevant period which may warrant the downgradation of his APAR.



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14. The respondents along with the counter affidavit have also annexed the para-wise comments submitted by the Reporting and the Reviewing Officer to the respondent no.5 basis whereof the representation against the Impugned APAR was decided and rejected by the respondent no.5. Apart from giving a vague comment that the assessment has been made basis the work performed by the petitioner, there are no particular instances which would have warranted the downgradation of the Impugned APAR of the petitioner. The Reviewing Officer, in fact, again simply states his agreement with the comments of the Reporting Officer, thereby undermining the very purpose for which a Reviewing Officer is required for recording an APAR.

15. In this regard, we may note the observations made by this Court in *Sanjeev Dhundia* (supra):

“19. ...Writing in the APAR that the petitioner had not shown initiative or had to be prodded or had to be nudged into action, without quoting specific instances, which were also followed up and substantiated by written advisories for improvement, and relying on letters sent in the early part of the assessment year, which in any case do not qualify as advisories, to make such adverse remarks in the APAR, leaving no opportunity for the petitioner to improve his performance, militates against principles of natural justice and the objectives of recording the APARs no efforts seem to have been made by Respondent 4 to find out the causes why the performance of the petitioner who was an ‘outstanding’



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officer had in that year fallen so steeply, and to thereafter, make efforts to remove the issues interfering with excellence in performance of his duties. Moreover, when no written advisories were issued to the petitioner to improve his performance, it cannot be concluded that the petitioner had continued with unsatisfactory performance despite cautioning and opportunities to improve, to substantiate the adverse remarks recorded by Respondent 4.”

16. To the same effect are the Judgments of the Supreme Court in ***Sukhdeo*** (supra) and ***Yamuna Shanker Mishra*** (supra).

17. In the present case, as we find that the numerical grading given to the petitioner and downgradation of his APAR to “Good” do not match with the Pen Picture recorded by the Reporting Officer himself, and that there are no specific instances explained by the respondents even in their counter affidavit, let alone in the APAR or otherwise, which would warrant a downgradation of the grading of the petitioner, the Impugned APAR cannot be sustained.

18. As far as the petitioner not completing his training in the Army is concerned, the same being prior to the period of the Impugned APAR could also not have influenced the respondents to downgrade the petitioner for the relevant period.

19. In view of the above, the Impugned APAR for the period 21.06.2015 to 31.03.2016 is set aside. It is made clear that the respondents shall not consider the Impugned APAR for any kind of assessment related to the petitioner in the future.



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20. The petition is allowed in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J.

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 3, 2025/sg/IK