



2025:DHC:11243-DB



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

% *Date of decision: 10th December, 2025*

+ **W.P.(C) 7053/2016**

ANIL KUMAR AKARNIA

.....Petitioner

Through: Mr. Vipin Kumar Yadav and Mr.
Krishna Srinivasan, Advs.

versus

DIRECTOR GENERAL, INDO-TIBETAN BORDER POLICE
FORCE & ORS

.....Respondents

Through: Mr. Prasanta Varma, SCGC along
with Mr. Rajat Choudhary, Ms.
Richu, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

DINESH MEHTA, J. (ORAL)

1. By way of the present writ petition, the petitioner has challenged the adverse entry and degradation of his Annual Performance Appraisal Report (*hereinafter referred to as "APAR"*) by the Reviewing Authority from very good (7) to very bad (3.68).
2. Learned counsel for the petitioner invited Court's attention towards the APAR prepared by the Reporting Officer and highlighted that the Reporting Officer (Commandant 3rd Battalion ITBP, Bareilly, U.P) has given him numerical grading on the bases of weightage given in part four as



7 which is equivalent to very good for the period between 01.10.2014 to 31.03.2015, whereafter, when the APAR was placed before the Reviewing Authority, namely, DIG, ITBP, reduced his APAR grading marks to 3.68 which means very bad. He further invited Court's attention towards the following remarks made by the Reviewing Authority and submitted that the same is unfounded and untenable:

"During the period, when the services of officer was required at BHQ for preparation for ANO deployment, he remained at Delhi for his own treatment. The officer required informed in attitude in administrative matter."

3. In a bid to complete the narration of facts, learned counsel submitted that thereafter the matter went before the Accepting Authority, namely, IG, ITBP who however did not touch upon the adverse remarks but in place of 3.68 he increased the grade to 5 which is equal to good.

4. Learned counsel for the petitioner argued that as per the guidelines regarding filling of the APAR and other guidelines issued by the respondents from time to time, an adverse entry has to be supported by valid reasons. He submitted that admittedly, the petitioner underwent the surgery for Hernia, firstly in February 2014, whereafter his problem persisted and hence, he was kept in low medical category (*hereinafter referred to as "LMC"*).

5. He further submitted that the petitioner was advised to take treatment at Delhi which is evident from the documents, for which time to time movement orders were issued by the Competent Authority-respondents. He submitted that the petitioner lastly had to undergo a repeat surgery for his ailment. In this regard, learned counsel for the petitioner navigated the Court



through relevant medical evidence placed on record (PDF page no.77 to 99).

6. Learned counsel further submitted that when the petitioner had admittedly undergone surgery of Hernia and had been repeatedly kept under low medical category (LMC), the Reviewing Authority (IG), who was sitting 1300 kilometers from the place of petitioner's posting could not have made such remark, more particularly, for one solitary incident when he was getting treatment at Delhi as per the medical advice and pursuant to a movement order.

7. Learned counsel argued that the Reviewing Authority had no material or reason to award 3.68 marks to the petitioner, which is equivalent to very bad, when nothing adverse was found by the Reporting Officer and he had no facts or justification to record such entry.

8. Learned counsel contended that the adverse remark made by the Reviewing Authority that when the petitioner was required at BHQ for the preparation of ANO deployment, he remained at Delhi for his own treatment was beyond petitioner's control, particularly when he was undertaking his treatment at Delhi while he was posted at Bareilly at the relevant point of time.

9. Learned counsel submitted that since the petitioner was in LMC and undergoing Hernia surgery and treatment, in case he had shown his unavailability to report at Battalion Headquarters (BHQ), he cannot be accused of being guided by personal interest, that too when he went to Delhi in furtherance of the medical advice given by the doctors at the Battalion itself.

10. While asserting that all APARs of the petitioner after 2014-2015 are



very good, learned counsel argued that not only the grading of 5 being good concerns him, what concerns the petitioner the most is, the adverse remarks in the APAR, which would come in his way of future promotions or endeavors.

11. *Per-contra*, learned counsel for the respondents invited Court's attention towards the counter affidavit filed by the respondent no.3 and submitted that respondent no.3, the Reviewing Authority had not reduced the grading of the petitioner without there being any basis or without recording reason. He submitted that the Accepting Authority in any case had upgraded the petitioner's grading to 5 which is equal to good and therefore no interference is warranted. He submitted that the grading, overall performance or appraisal of performance is subjective to satisfaction to the authorities concerned under whose control and supervision an employee works and the scope of interference by Writ Court is very limited in such matter.

12. He further submitted that the APAR is for the purpose of ensuring improvement, when an employee is laxing or wanting in some manner.

13. Heard learned counsel for the parties and perused the record.

14. In the normal circumstances, we would not have looked at the APARs and be reluctant to interfere in matters related to APARs. However, the facts of the present case persuades us to ponder a bit deeply.

15. A perusal of the APAR made by the Reporting Officer shows that the petitioner was awarded 7 grading points, which was equal to very good. Needless to observe that the Commandant is the person under whose instruction and direct supervision the petitioner used to work as Assistant



Commandant/2nd Commandant while working in Battalion at Bareilly. In the APAR, he had not made any remark, which can be treated to be adverse to his performance.

16. We are not much convinced with the argument of the learned counsel for the petitioner that a Reviewing Authority sitting at 1300 kms cannot have any access or information or the material with him to downgrade the report.

17. However, the facts of present case impels us to observe that the reason which had been given by the Reviewing Authority that when the petitioner was required at BHQ for ANO deployment, he had expressed his inability or indifferent attitude, is a reason cannot be taken to be a reason to infer that the petitioner was indolent and indifferent. Particularly when, he was undergoing treatment for Hernia, for which he had been suffering for about a year. Such medical condition is evident from the record that the petitioner has produced before us and this fact is absolutely undisputed.

18. It is true that the Accepting Authority has modified the grading and increased the petitioner's marks to 5. The fact that the Accepting Authority has modified it from 3.68 (very bad) to 5 (good) shows that there was erroneous assessment by the Reviewing Authority. Since the overall remarks has been upgraded to good, we would not have interfered in the matter, but considering the petitioner's contention that his grading after 2014-2015 has always remained very good and if the remark is not appropriately modified, as given by the Reporting Officer, it will affect his service career.

19. The impugned remark given by the Reviewing Officer is arbitrary to say the least. One cannot be accused of indifference, when he is undergoing



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treatment and required a surgery. There is no material to show that the petitioner had taken an excuse because of the Hernia problem.

20. For the aforesaid reasons, the Writ Petition is allowed.

21. The grading of the petitioner which has been modified by the Reviewing Authority to 3.68 and thereafter again modified by the Accepting Authority to 5 is set aside. The grading made by the Reporting Officer i.e. 7 is restored. The following adverse remark is quashed:-

“During the period, when the services of officer was required at BHQ for preparation for ANO deployment, he remained at Delhi for his own treatment. The officer required informed in attitude in administrative matter.”

DINESH MEHTA, J

VIMAL KUMAR YADAV, J

DECEMBER 10, 2025/sr