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

\+ W.P.(C) 11799/2016

BADAN SINGH .....Petitioner

Through: Mr. Amit Kumar Singh, Mr. Rohit Rexwal, Mr. Ashish, Advs.

Versus

DIRECTOR GENERAL, INDO TIBETAN BORDER POLICE FORCE & ORS .....Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr. Sunil, Adv. and Devender Singh, ITBP

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE SAURABH BANERJEE

O R D E R

% 11.08.2025

1. The petitioner by virtue of present writ petition filed under *Article 226* of the Constitution of India, has approached this Court with the following prayers:

> *"(1) That this Hon'ble Court may further direct Respondent No. 1 to review the enquiries/memos/orders dated 13.05.15, 05.10.2015, 18.04.2015, 20.04.2015,15.07.2015,18.10.2016, 22.10.2016, APAR for the period of 01.01.2015 to 30.05.2015 and others issued by Respondent no. 3 against the petitioner and get the same adjudicated by an independent/neutral officer/authority who is not under any influence/command of Respondent no.3 directly or indirectly or from an officer superior to the respondent no.3 of some other battalion;*

(2) Direct Respondent No.3 to stop issuing incessant memos/show cause notices/report against the Petitioner."

2. *Vide* order dated 07.07.2023, as most of the grievances of the petitioner stand redressed in view of orders dated 20.02.2019 and 04.02.2020 as also on account of the dismissal of respondent no.3's/ Reviewing Officer (*Reviewing Officer*), the Court by order dated 07.07.2023 directed that the scope of the present writ petition be restricted only to the recovery sought to be made against the petitioner towards part of the amount spent on the medical treatment as well as upgradation of the Annual Performance Appraisal Reports (***APARs)*** of the petitioner which were reviewed by the respondent no.3 as the Reviewing Officer for the period of 01.01.2015 to 30.05.2015.

3. Adverting first to the *APARs*, the learned counsel for the petitioner has taken this Court to the *APARs* dated 16.09.2025, which are disclosed to the petitioner.

4. A perusal of the said *APARs* disclose that the Reporting Officer has given the petitioner certain gradings, and the reason given for the said gradings was that the petitioner disobeys his seniors and also misbehaves with the juniors. The assessment of the personal attributes and the gradings given by the Reporting Officer are reproduced to read as under:

(अ) कार्य निष्पादन का मूल्यांकन (इस भाग का भार 40% होगा)

(A) Assessment of work output (weightage to this Section would be 40%.)

	प्रतिवेदन अधिकारी Reporting Authority	पुनर्विलोकन अधिकारी Reviewing Authority	पुनर्विलोकन अधिकारी के आद्यक्षर Initial of Reviewing Auth.
i. पूर्वनियोजित कार्य की परिपूर्णता/ विषय के आधार पर आवंटित किया गया कार्य Accomplishment of planned work/ work allotted as per subjects allotted.	3	3	[illegible]
ii. कार्य निष्पादन की कोटि Quality of output	3	3	[illegible]
iii. विश्लेषणात्मक योग्यता Analytical ability	3	3	[illegible]
iv. अपवादात्मक कार्य की परिपूर्णता /किये गए अप्रत्याशित कार्य Accomplishment of exceptional work/ unforeseen tasks performed	3	3	[illegible]
निर्दिष्ट कार्य पर कुल मिलाकर श्रेणीकरण Overall Grading on 'Work output'. (Total Score ÷ 4 X 0.4)	1.2 3.0 [illegible]	1.2	[illegible]

(ब) व्यक्तिगत विशेषताओं का मूल्यांकन (इस भाग का भार 30% होगा)

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

	प्रतिवेदन अधिकारी Reporting authority	पुनर्विलोकन प्राधिकारी Reviewing Authority	पुनर्विलोकन प्राधिकारी के आद्याक्षर Initial of Reviewing Auth.
i. कार्य की अभिवृत्ति Attitude to work	4	4	
ii. जिम्मेदारी की भावना Sense of responsibility	4	4	
iii. अनुशासन का अनुरक्षण Maintenance of Discipline	4	4	
iv. संप्रेषण क्षमताएं Communication skills	4	4	
v. नेतृत्व के गुण Leadership qualities	3	3	
vi. दल की भावना में कार्य करने की क्षमता Capacity to work in team spirit	4	4	
vii. समय सारणी का अनुसरण करने की क्षमता Capacity to work in time limit	3	3	
viii. परस्पर व्यक्तिगत संबंध Inter-personal relations	4	4	
व्यक्तिगत विशेषताओं पर कुल मिलाकर श्रेणीकरण Overall Grading on personal attributes = (Total Score ÷ 8 X 0.3)	1.125	1.12	

(स) प्रकार्यात्मक सक्षमता का मूल्यांकन (इस भाग का भार 30% होगा)

(C) Assessment of functional competency (weightage to this Section would be 30%)

	प्रतिवेदन अधिकारी Reporting Authority	पुनर्विलोकन प्राधिकारी Reviewing Authority	पुनर्विलोकन प्राधिकारी के आद्याक्षर Initial of Reviewing Auth.
i. नियमों / विनियमों / कार्यों एवं प्रक्रियाओं के क्षेत्र में प्रक्रियाएं एवं उनको सही प्रयोग की जानकारी Knowledge of Rules/Regulations/ Procedures in the area of function and ability to apply them correctly	4	4	
ii. नीतिगत योजना बनाने की क्षमता Strategic planning ability	4	4	
iii. निर्णय लेने की योग्यता Decision making ability	4	4	
iv. समन्वय क्षमता Coordination ability	4	4	
v) अधीनस्थ को प्रेरित करने एवं विकसित करने की क्षमता Ability to motivate and develop subordinates	4	4	
प्रकार्यात्मक सक्षमता पर कुल मिलाकर श्रेणीकरण Overall Grading on functional competency = (Total Score ÷ 5 X 0.3)	1.2.	1.2	

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5. सत्यनिष्ठा Integrity
(कृपया अधिकारी की सत्यनिष्ठा पर टिप्पणी दें Please comments on the integrity of the officer)

Beyond doubt.

6. प्रतिवेदन के भाग–3 के आधार पर कुल मिलाकर संख्यात्मक वर्गीकरण (अ+ब+स)
Overall numerical grading on the basis of weightage given in part -3 of the Report. (A+B+C) ~~5~~ 3.25 3.52

भाग – 4 PART – IV
पुनर्विलोकन अधिकारी की अभ्युक्ति REMARKS OF THE REVIEWING OFFICER

1. पुनर्विलोकन अधिकारी के अधीन की गई सेवा की अवधि
Length of service under the Reviewing officer 01.01.15 से 30.05.15

2. पुनर्विलोकन अधिकारी द्वारा कलम तस्वीर । कृपया समालोचन करें (लगभग 100 शब्दों में) जिसमें कर्मी की समस्त विशेषताओं की सामर्थ्य क्षेत्र एवं कम सामर्थ्य क्षेत्र एवं उसकी दुर्बल वर्गों के प्रति अभिवृत्ति शामिल हो ।
Pen Picture by reviewing Officer. Please comment (in about 100 words on the overall qualities of the official including area of strengths and lesser strength and his attitude towards weaker sections.)

He is not good in Discipline and most of the time disobey Senior and misbehave with Juniors.

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भाग–5 PART-V
प्रतिहस्ताक्षर करने वाले अधिकारी की टिप्पणी
REMARKS OF THE COUNTERSIGNING/ACCEPTING AUTHORITY
(अर्थात् अगला उच्च अधिकारी) / (i.e. Next Superior Officer)

1. क्या आप प्रतिवेदन / पुनर्विलोकन अधिकारी की अभियुक्ति से सहमत हैं ?
Do you agree with the remarks of the reporting/reviewing authorities? यस

2. विचारों की भिन्नता की दशा में उसका विवरण सहित कारण दिया जाए
Comments on the remarks of the reporting/reviewing authority and details of difference of opinion, if any, with reasons for the same. ~~We differ~~ I do not completely agree with reporting & rewiewing officer. An enquiry is pending in Crimen Scene

3. प्रतिवेदन के भाग–3 में दिए गए भारांश के आधार पर कुल मिलाकार संख्यात्मक वर्गीकरण ।
Overall numerical grading on the basis of weightage given in Part- 3 of the Report. 4.1

5. It is observed that the Reviewing Officer, has endorsed the view of the Reporting Officer. However, the Accepting Authority has deferred

with the gradings given by the Reporting Officer and Reviewing Officer, citing that the reason for the grades given could have been because of the allegations made by the petitioner against the Reviewing Officer.

6. When this Court put a question to the learned CGSC as to whether the Reviewing Officer was the direct superior of the Reporting Officer or not, the learned CGSC, on instructions, states that it is a fact that the Reviewing Officer was the immediate superior of the Reporting Officer. He, also, upon instructions states that the said Reviewing Officer has been dismissed from service on account of certain other inquiries which have been initiated against the Reviewing Officer.

7. On a pointed question as to whether complaints had been made by the petitioner against the Reviewing Officer, the learned CGSC, on instructions, affirms that there were indeed complaints given by the petitioner against the Reviewing Officer.

8. As per the statement made by the learned CGSC, it is *admitted* that Reviewing Officer was the immediate superior of the Reporting Officer, and it is also *evident* that the complaints have been made by the petitioner against the Reviewing Officer.

9. In light of the aforesaid, it appears that the *APARs* calls for reconsideration, as it is apparent from the record that the integrity of the petitioner was stated to be *beyond doubt*. It is also pertinent to note that the Accepting Authority states that he does not completely concur with the opinion of the Reporting Officer/ Reviewing Officer for giving poor grades, as there were complaints filed by the petitioner against the Reviewing Officer. Therefore, taking into consideration the facts and the settled law, we cannot permit the petitioner to be subjected to the glaring

vindictiveness inflicted upon him in the form of adverse *APARs* by the Reviewing Officer, which impacts the future of the petitioner and prospective benefits.

10. Furthermore, in the case titled ***Manudev Dahiya v. Union of India & Ors***.[1], the learned Single Judge has held that when facts and circumstances indicate that vindictiveness is being taken out in the form of adverse *APARs*, the same is liable to be remanded back for fresh consideration.

11. In this scenario, this Court is of the opinion that it would be in the interest of justice to remit the matter back to the Reporting Officer to once again assess the performance of the petitioner for the relevant period, i.e., 01.01.2015 to 30.05.2015, based on the available records.

12. Coming to the second aspect regarding the recovery of the amounts spent by the petitioner for medical reimbursement for the relevant period. As far as medical bills are concerned, an additional affidavit dated 20.10.2023 has been filed by the Union of India wherein it has been stated as under:

> *"4. That as far as the grievance of the Petitioner regarding the recovery sought to be made against the Petitioner towards part of the amount spent on his medical treatment it is humbly submitted that during his posting at S.S. Battalion, the Petitioner was sanctioned medical advance amount of Rs.4,72,500/- from Central Welfare Fund for self-treatment. The Petitioner has produced medical reimbursement claims to S.S. Battalion after treatment, which was forwarded to Director (Medical), Dte. Genl. for issuing Ex-Post Facto sanction to pass the claim.*
>
> *5. That the Director (Medical), Dte. Genl. vide their Officer Memorandum No.609 dated 01.04.2016 intimated to S.S. Battalion that as per MoH&FW Office Memo*

[1] *MANU/DE/4556/2023*

*No.12034/2014/MISC/III dated 22.06.2014, according to the approved Ceiling Rates for Reimbursement of Cardiac Pacemaker, AICD, Combo-Device, Rotablator and Aortic Stent Graft to beneficiaries of ~ CS(MA) Rules, the ceiling rate for the Implantable Cardioverter Defribrillator (Single Chamber) (ICD/AICD-Single Chamber) has been fixed at Rs.1,75,786/- .Therefore, the claim of SO's be restricted to Rs. 1,75,786/- under CS(MA) Rule (Non-NABH) Delhi Procedure/package AICD rate Rs.28,750/- + Pacemaker with Accessories Implantable Cardioverter Defribrillator (Single Chamber) (ICD/AICD - Single Chamber) and any bill other than the package rate will not be admissible. Copy of the Office Memorandum No.609 dated 01.04.2016 with English Translation is being annexed herewith as **ANNEXURE-R/2**.*

*6. That subsequently the Director (Medical), Dte. Genl. has issued Ex-post Facto sanction order of Rs.2,04,536/- for said medical reimbursement vide their Officer Order No.1257 dated 28.07.2016 for reimbursement of expenditure occurred on self-treatment w.e.f. 28.11.2013 to 30.11.2013 due to his disease CAD with old Anterior Wall Myocardial Infraction with double Vessel Disease/ AICD Implantation in emergency situation at Mex Hospital Shalimar Bagh, Delhi. Copy of the Officer Order No.1257 dated 28.07.2016 with English Translation is being annexed herewith as **ANNEXURE-R/3**."*

13. In view of the reasons given by the Union of India in the affidavit, and also as the amounts spent for medical purposes are over and above the permissible limit as per the germane regulations i.e., Office Memo no. 12034/20I4/MISC/III dated 22.06.2014, the medical expenses incurred by the petitioner are clearly beyond the ceiling prescribed. Further, office order No.1257 dated 28.07.2016 states that the cumulative payment made by the respondents towards the medical expenses of the petitioner is beyond the prescribed limit. Therefore, the additional amount of (*Rs. 2,67,964*/-) is liable to be reimbursed to the respondents. In view of the above discussions, we are not in a position to accede to the prayer moved

by the petitioner.

14. The petition is disposed of in the aforesaid terms.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

AUGUST 11, 2025/Ab