



2026:DHC:3577-DB



\$~75

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

Date of Decision: 23.04.2026

+ W.P.(C) 9334/2019
CHANDRA MAULI KUMAR T. SHARMAPetitioner
Through: Mr. Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS.Respondents
Through: Ms. Pratima N. Lakra, CGSC
with Mr. Shailendra Kumar
Mishra and Ms. Upanita
Sandeep Chaudhary, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition under Article 226 of the Constitution of India, the Petitioner challenges various administrative actions taken against him during his service in the Indo-Tibetan Border Police Force ('ITBP'), including the issuance of Director General's Displeasure dated 09.03.2015 [hereinafter referred to as 'DG's Displeasure'], the warning and advisory dated 03.03.2014, the warning memorandum dated 18.03.2015, as well as the consequential rejection orders dated 01.02.2017, 14.03.2018 and 04.04.2018, whereby his representations against the said actions came to be rejected. The Petitioner also assails the incorporation of the aforesaid actions in his Annual Performance Assessment Report ('APAR') for the year 2013-2014.

2. The Petitioner further challenges the communication dated



2026:DHC:3577-DB



07.03.2019 declining reconsideration of the decisions taken in his case and the memorandum dated 17.06.2019 rejecting his request for expunction of the adverse material from his service record. On the basis thereof, the Petitioner seeks a direction for convening a Review Departmental Promotion Committee ('DPC') for consideration of his promotion to the rank of Deputy Inspector General ('DIG') along with all consequential benefits.

3. In order to appreciate the controversy involved in the present case, the relevant facts, in brief, are required to be noticed.

4. The Petitioner was appointed as an Assistant Commandant in the ITBP on 06.12.1991 and, upon earning promotions in the normal course of service, was promoted to the rank of Commandant in the year 2008. During his service tenure, the Petitioner also served on specialised assignments, including deputation with the National Security Guards and deployment as part of the Indian contingent in a United Nations Mission in Congo.

5. The dispute in the present proceedings arises from three separate incidents during the Petitioner's tenure as Commandant, which subsequently resulted in issuance of administrative advisories and recording of adverse material in his service record.

6. During the relevant period, the Petitioner was posted as Commandant with the 3rd Battalion at Bareilly. While serving in the said capacity, allegations surfaced regarding the demand for illegal gratification by a Medical Officer from a constable. According to the Petitioner, upon receiving information regarding the incident and in



2026:DHC:3577-DB



response to queries raised by the Director General ('DG'), he directed subordinate officers to verify the allegations and ascertain the factual position. In the meantime, a Court of Inquiry was convened by order dated 18.01.2013 against the concerned Medical Officer. The first Court of Inquiry did not return a finding of guilt, however, the competent authority disagreed with the said findings, whereafter a second Court of Inquiry was initiated, which ultimately returned findings of guilt against the Medical Officer. The Respondents state that the Petitioner, despite being aware of the incident, did not immediately report the matter to higher headquarters, which, according to them, formed the basis for initiation of administrative action.

7. While forwarding the proceedings of the inquiry to the DG, the Inspector General ('IG') proposed award of DG's Displeasure against him. Consequently, a show cause notice dated 24.02.2014 was issued to the Petitioner calling upon him to submit his explanation within fifteen days.

8. Thereafter, by order dated 09.03.2015, the DG's Displeasure was conveyed to the Petitioner and recorded in his service record. The Petitioner had, prior thereto, sought supply of the material forming part of the Court of Inquiry proceedings for submitting an effective response, however, the said request was declined by the authorities. Aggrieved thereby, the Petitioner submitted a representation seeking withdrawal of the said displeasure, which came to be rejected by the competent authority *vide* order dated 01.02.2017, affirming continuation of the displeasure in his service record. Subsequently, the



2026:DHC:3577-DB



Petitioner again submitted representations requesting reconsideration and withdrawal of the DG's Displeasure; however, the same were rejected *vide* memorandum dated 04.04.2018 on the ground that no new facts had been brought on record warranting reconsideration.

9. The second incident arose from a complaint made in the year 2013 alleging that the Petitioner had utilised services of force personnel in connection with a private property dispute involving his family members. According to the Petitioner, an inquiry was initiated by the DG on the basis of the said complaint without furnishing him a copy thereof. The inquiry culminated in issuance of a warning and advisory dated 03.03.2014 by the DG, advising the Petitioner to refrain from such conduct in future. According to the Respondents, the inquiry conducted in this regard recorded interaction of a force personnel with the Petitioner in connection with the said complaint, whereafter an advisory warning came to be issued.

10. It is the Petitioner's case that the memorandum dated 03.03.2014 was never separately communicated to him and that he became aware of the said warning only upon disclosure of his APAR for the year 2013-2014, wherein reference to the warning formed part of the assessment record. Upon receipt of the APAR, the Petitioner submitted a representation dated 21.02.2015 seeking expunction of the adverse remarks and enhancement of the overall numerical grading recorded therein. The said representation was processed in accordance with the applicable instructions governing consideration of APAR representations and came to be rejected by the competent authority *vide* communication dated 20.07.2015.



2026:DHC:3577-DB



11. The communication dated 20.07.2015 records that, during consideration of the Petitioner's representation, the competent authorities examined the assessments made by the Reporting, Reviewing and Accepting Authorities as well as the material forming part of the APAR dossier. It was noted that although a secret inquiry conducted into allegations against the Petitioner did not reveal any substantiated misconduct, the Reporting and Reviewing Officers maintained that the grading awarded in the APAR reflected an objective and unbiased assessment of the Petitioner's performance, work output and functional attributes during the relevant period. While the Reviewing Officer recommended certification of the Petitioner's integrity as "Beyond Doubt", observing that nothing adverse had emerged against him during the period under review, the Accepting Authority found no justification for enhancement of the overall numerical grading. Consequently, the representation seeking upgradation of grading was not accepted, though certification of integrity for the relevant period was recommended in accordance with the applicable DoPT instructions.

12. The third incident pertains to disciplinary proceedings initiated in the year 2014 against HC/GD Gopal Singh, who was found taking mess food for personal use. Thereafter, the Petitioner, on 14.02.2014, while functioning as Commandant, awarded the punishment of severe reprimand to HC/GGD Gopal Singh. Upon representation dated 19.04.2014 by the said official alleging denial of opportunity of hearing, the DIG, by order dated 10.07.2014, set aside the punishment. The matter was thereafter forwarded to higher authorities in view of the disagreement expressed by the IG, and during the pendency of



2026:DHC:3577-DB



consideration at the Directorate, the said official instituted W.P.(C) No.9178/2014 before this Court seeking disposal of his representation, which came to be disposed of on 22.12.2014 directing the competent authority to pass a reasoned order.

13. Thereafter, a warning memorandum dated 18.03.2015 came to be issued to the Petitioner observing that the disciplinary action initiated by him against the subordinate official was procedurally improper, which was noted to have resulted in the subordinate official approaching this Court. According to the Petitioner, the warning was issued despite the subordinate official having approached this Court only for disposal of his representation. It is further the Petitioner's case that the warning was issued without issuance of any show cause notice or affording him an opportunity of explanation.

14. Aggrieved by the aforesaid warning, the Petitioner sought a personal audience with the DG through representation dated 11.12.2017 requesting withdrawal of the warning. The said request, however, came to be rejected *vide* communication dated 14.03.2018 stating that no further action was warranted in the matter.

15. The Petitioner further asserts that delay in issuance of his integrity certificate for the relevant period 2013-2014 adversely affected his promotional prospects. According to him, the delayed issuance of the integrity certificate coincided with the meeting of the DPC held in November 2017, during which his case for promotion was considered. It is also his case that the APAR for the year 2013-2014, containing references to the warning and DG's Displeasure, had been communicated to the Petitioner in the year 2015, whereafter he



2026:DHC:3577-DB



submitted representations seeking expunction of the adverse material. The said representations came to be rejected by the competent authority *vide* memorandum dated 17.06.2019. The Petitioner had also sought reconsideration of the earlier administrative decisions concerning the adverse material recorded in his service dossier, however, the said request was declined by the Respondents *vide* communication dated 07.03.2019 reiterating the earlier position.

16. Further, when the DPC convened in November 2017 for consideration of promotion to the rank of DIG, the service record of the Petitioner, including the entries forming part of the APAR dossier, was taken into account in the process of assessment. In the DPC, the Petitioner was not recommended for promotion.

17. Aggrieved thereby, and attributing his non-promotion to the adverse material recorded in his service record, the Petitioner has instituted the present Writ Petition.

18. In the above factual background, learned counsel appearing for the parties addressed submissions on the legality of the administrative entries relied upon by the DPC and their impact upon the Petitioner's promotional assessment.

19. Learned counsel representing the Petitioner submits that the impugned DG's Displeasure dated 09.03.2015, warning and advisory dated 03.03.2014 and warning memorandum dated 18.03.2015 were issued in breach of principles of natural justice inasmuch as the material forming the basis of such actions was not supplied to the Petitioner and no effective opportunity of explanation was afforded



2026:DHC:3577-DB



prior to recording the said entries in his service record.

20. It is further contended that the aforesaid communications do not constitute statutory penalties under the applicable disciplinary framework and, therefore, could not lawfully form the basis for denial of promotion. According to the Petitioner, reliance upon administrative displeasure or advisory remarks, particularly where such communications were either not properly communicated or were considered *dehors* the governing instructions, vitiates the promotional assessment. Reliance is placed upon the decision of a Coordinate Bench of this Court in ***Dr. O.P. Nimesh v. Union of India & Ors.***¹

21. Learned counsel further submits that the warning issued in connection with disciplinary action taken by the Petitioner against a subordinate officer was recorded without issuance of any show cause notice and solely because the subordinate officer approached this Court seeking disposal of his representation. It is contended that the cumulative presence of such administrative entries, coupled with delay in issuance of the integrity certificate for the relevant period, operated to the prejudice of the Petitioner when his case was considered by the DPC held in November 2017.

22. *Per contra*, learned counsel representing the Respondents submits that the impugned actions arose from three independent incidents reflecting supervisory and procedural deficiencies attributed to the Petitioner during his tenure as Commandant. It is contended that a show cause notice preceded issuance of DG's Displeasure and that the Petitioner was not entitled to copies of Court of Inquiry



2026:DHC:3577-DB



proceedings in view of Rule 177 of the ITBP Rules, 1994.

23. The Respondents further submit that once warnings and displeasure formed part of the APAR dossier, the same constituted relevant service material legitimately available for consideration by the DPC. The DPC, being an expert body entrusted with assessment of suitability, was entitled to undertake an overall evaluation of service record and judicial review cannot extend to reassessment of merit in the absence of mala fides, procedural irregularity or violation of governing rules.

24. It is additionally contended that, in terms of applicable Government instructions governing consideration of warnings and displeasure, entries forming part of the APAR record could be taken into account for promotional assessment. Reliance is placed upon ***Union of India & Anr. v. SK Goel & Ors.***² to submit that courts ought not to substitute their own evaluation for that of a duly constituted DPC acting within the prescribed framework.

25. In light of the rival submissions, the following issues arise for consideration:

- i. Whether the DG's Displeasure dated 09.03.2015, warning and advisory dated 03.03.2014, and warning memorandum dated 18.03.2015 were issued in conformity with principles of natural justice and the governing service framework.

¹ W.P.(C) 2466/2017

² SLP(C) No.2410/2007



2026:DHC:3577-DB



ii. Whether the inclusion and continued reliance upon the aforesaid administrative communications in the Petitioner's service record, including the APAR for the year 2013–2014, was legally sustainable.

iii. Whether the decision-making process culminating in rejection of the Petitioner's representations suffers from arbitrariness, non-application of mind or legal infirmity.

iv. Whether reliance upon the said material vitiated the assessment undertaken by the Departmental Promotion Committee and consequently warrants interference and direction for convening a Review DPC.

26. The Court has considered the rival submissions advanced by learned counsel representing the parties and perused the material placed on record. The aforesaid issues being interconnected are taken up together for consideration.

27. At the outset, it is well settled that assessment of suitability for promotion falls primarily within the domain of the DPC, which functions as an expert body entrusted with evaluation of service records. Judicial review does not extend to re-appreciation of comparative merit or substitution of the Court's view for that of the DPC. Interference is warranted only where the decision-making process is shown to be contrary to governing rules, vitiated by illegality, arbitrariness, *mala fides*, or founded upon considerations impermissible in law.

28. It is also well settled that the DPC enjoys latitude to devise its



2026:DHC:3577-DB



own procedure for objective assessment and that courts ought not to interfere with promotion assessments unless the process is contrary to applicable rules or suffers from manifest illegality.

29. At the same time, the discretion of the DPC is not unfettered. Its assessment must remain consistent with binding governmental instructions governing consideration of service material. Where reliance is placed upon material which, under the applicable policy framework, is impermissible for determining fitness for promotion, judicial review is attracted.

30. The principal controversy in the present case concerns the legality of reliance upon administrative communications, namely DG's Displeasure dated 09.03.2015, warning and advisory dated 03.03.2014, and warning memorandum dated 18.03.2015, while assessing the Petitioner's suitability for promotion to the rank of DIG.

31. The Petitioner contends that such communications do not constitute statutory penalties and therefore could not have been treated as determinative adverse material. Reliance is placed upon the decision of this Court in **Dr. O.P. Nimesh** (*supra*), wherein it was held that "displeasure", not being a penalty enlisted under Rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 [hereinafter referred to as 'CCS CCA Rules'], cannot independently form the basis for denial of promotion.

32. The Respondents, on the other hand, submit that once warnings or displeasure form part of the APAR dossier, the DPC is entitled to consider the overall service record and arrive at an independent



2026:DHC:3577-DB



assessment of suitability in terms of Government instructions prevailing since the Office Memorandum of 1989.

33. The Office Memorandum dated 27.03.2015, relied upon in **O.P. Nimesh** (*supra*), clarifies that DG's Displeasure is not a penalty under Rule 11 of the CCS (CCA) Rules and cannot be considered for denial of promotion. The scheme envisaged therein indicates that displeasure or warning may at best guide the Reporting or Reviewing Authority while recording APAR grading, however, once the APAR stands finalised, the displeasure itself does not survive as an independent adverse factor affecting promotional entitlement.

34. Therefore, while the DPC may examine the finalized APAR gradings reflecting overall performance, reliance upon administrative displeasure *per se* as a determinative factor for declaring an officer unfit would run contrary to the governing instructions.

35. At this stage, the communication dated 20.07.2015 rejecting the Petitioner's representation against the APAR assumes independent significance. The said communication records that a secret inquiry did not disclose substantiated misconduct and that the Petitioner's integrity stood certified as "Beyond Doubt". Once the competent authority itself recorded absence of proven misconduct, retention of advisory or warning-based adverse influence upon grading, without furnishing underlying material or affording a meaningful opportunity of response, renders the decision internally inconsistent. An APAR assessment must reflect performance evaluation and cannot indirectly perpetuate untested administrative allegations.



2026:DHC:3577-DB



36. The record reveals that prior to issuance of the DG's Displeasure, the Petitioner sought supply of material forming part of the Court of Inquiry proceedings in order to submit an effective explanation. The request was declined on the ground that under Rule 177 of the ITBP Rules, 1994, copies of Court of Inquiry proceedings are ordinarily furnished only to a person against whom an opinion is recorded or who is being tried by a Force Court.

37. Rule 177 of the ITBP Rules, 1994, cannot, however, be read in isolation. Rule 174(8)(ii) of the said Rules mandates that before a Court of Inquiry gives an opinion against any person subject to the Act, such person must be afforded an opportunity to know the material stated against him, cross-examine witnesses and make a defence. The combined effect of these provisions indicates that procedural protection is attracted whenever inquiry proceedings culminate in an opinion adverse to an officer, irrespective of whether formal disciplinary proceedings are initiated thereafter.

38. In the present case, though the Respondents may be justified in contending that the Petitioner was not technically entitled to copies under Rule 177 as an accused before a Force Court, the administrative action that followed was nevertheless founded upon conclusions emerging from the inquiry. Once the outcome of a Court of Inquiry is utilised to record adverse material affecting an officer's service profile and future promotion, principles underlying Rule 174(8)(ii) require that the officer be placed in a position to effectively meet the allegations. Denial of access to the foundational material, followed by reliance upon the resulting DG's Displeasure in promotional



2026:DHC:3577-DB



assessment, renders the process procedurally unfair and legally unsustainable.

39. A similar infirmity is discernible in relation to the warning memorandum dated 18.03.2015, which was admittedly issued without issuance of any show cause notice to the Petitioner. The record indicates that the warning stemmed from a disagreement at the higher level with disciplinary action initiated by the Petitioner against a subordinate official, who had approached this Court merely seeking disposal of his pending representation. While administrative authorities are undoubtedly competent to review supervisory decisions, the issuance of an adverse warning affecting the service record, without affording the officer an opportunity to explain his conduct, assumes significance when such entry is subsequently relied upon during promotional assessment by the DPC. The absence of procedural fairness at the stage of recording the warning, therefore, cannot be treated as inconsequential. The warning memorandum dated 18.03.2015, therefore, stands vitiated for violation of principles of natural justice.

40. The three incidents forming the basis of the impugned administrative actions, when examined cumulatively, disclose at best issues relating to supervisory judgment or procedural assessment and do not record any finding of misconduct culminating in imposition of a statutory penalty under the applicable disciplinary framework.

41. Insofar as the first incident concerning allegations against a Medical Officer is concerned, the record shows that a Court of Inquiry was convened and the matter thereafter proceeded at higher levels of



2026:DHC:3577-DB



command. The DG's Displeasure issued to the Petitioner was founded essentially upon an alleged delay in reporting the incident and not upon any finding of personal involvement, misconduct, or dereliction established through disciplinary proceedings.

42. The second incident relating to alleged utilisation of force personnel in a private dispute resulted only in issuance of an advisory warning. No formal disciplinary proceedings were initiated, nor was any penalty imposed, indicating that the matter was treated administratively rather than as proven misconduct.

43. The third incident arose from the Petitioner's exercise of disciplinary authority over a subordinate official. The subsequent disagreement expressed by superior officers pertained to procedural propriety of the action taken and not to any *mala fide* conduct or abuse of authority attributable to the Petitioner. The warning and advisory dated 03.03.2014 suffers from an additional infirmity inasmuch as the material forming its basis was neither supplied nor independently communicated to the Petitioner prior to its incorporation in the APAR, thereby depriving him of an effective opportunity to contest the same.

44. Significantly, none of the three incidents culminated in imposition of any penalty recognised under the applicable disciplinary framework. The administrative actions taken against the Petitioner remained in the nature of advisories, warnings or expression of displeasure. The cumulative service record, therefore, does not disclose any adjudicated misconduct warranting serious adverse consequence in promotional evaluation.



2026:DHC:3577-DB



45. In the present case, the record placed before this Court does not reveal the basis on which the Petitioner was assessed as unfit for promotion. The proceedings merely indicate non-recommendation without disclosing how the APAR gradings or overall performance fell short of the requisite benchmark. The absence of any discernible linkage between objective assessment and the ultimate conclusion of unsuitability renders the decision opaque.

46. The reliance placed by the Respondents upon **S.K. Goel** (*supra*) is misplaced. The Supreme Court in the said decision emphasised limited judicial interference with DPC recommendations where the assessment is undertaken in accordance with applicable rules and instructions. The judgment does not legitimise consideration of material which governing executive instructions themselves treat as incapable of constituting a disqualification for promotion. Judicial restraint in reviewing DPC decisions cannot extend to sustaining an assessment founded upon legally irrelevant considerations.

47. The present case, therefore, does not require this Court to undertake a re-assessment of comparative merit or substitute its own evaluation for that of the DPC. The scope of scrutiny is confined to examining whether the decision-making process stood vitiated by reliance upon material which, in law, could not legitimately form the basis of promotional assessment.

48. The record further indicates that the integrity certificate relating to the relevant period was issued belatedly and contemporaneously with consideration of the Petitioner's case by the DPC. When viewed in conjunction with the inclusion of administrative warnings and DG's



2026:DHC:3577-DB



Displeasure in the service dossier, the cumulative effect of these circumstances operated to the prejudice of the Petitioner's promotional consideration, thereby undermining fairness in the evaluation process.

49. Promotion processes in disciplined forces necessarily require a balance between maintenance of organisational discipline and fairness in career progression of officers. Administrative advisories or corrective communications, issued as supervisory measures, cannot be permitted to acquire the effect of punitive disqualifications in the absence of statutory foundation or governing instructions authorising such consequence.

50. Administrative advisories, warnings or expressions of displeasure serve a limited corrective purpose within service administration. Unless supported by statutory sanction or preceded by procedural safeguards ensuring fairness to the officer concerned, such communications cannot assume the character of punitive disqualifications affecting career advancement. To permit otherwise would enable imposition of civil consequences without recourse to the disciplinary framework recognised by law.

51. Upon cumulative consideration of the material on record, this Court is satisfied that the DG's Displeasure dated 09.03.2015, the warning and advisory dated 03.03.2014, and the warning memorandum dated 18.03.2015 do not constitute statutory penalties recognised under the applicable disciplinary framework. Their issuance and continued retention in the Petitioner's service record suffered from procedural unfairness, absence of disclosure of



2026:DHC:3577-DB



foundational material, and non-compliance with governing executive instructions regulating their effect upon promotional assessment. The consequential rejection orders affirming or reiterating these actions therefore cannot be sustained in law.

52. The Court is conscious that disciplined forces operate within a hierarchical command structure where supervisory corrections form part of institutional functioning. However, organisational discipline cannot override the requirement that adverse service consequences must rest upon legally sustainable material. Judicial intervention in the present case is therefore confined to restoring procedural fairness without encroaching upon the domain of administrative assessment.

53. For the foregoing reasons, present Writ Petition is allowed. The DG's Displeasure dated 09.03.2015, the warning and advisory dated 03.03.2014, the warning memorandum dated 18.03.2015, and the consequential orders dated 01.02.2017, 14.03.2018, 04.04.2018, 07.03.2019 and 17.06.2019 are hereby set aside. The Respondents shall treat the said communications as *non est* and expunge all consequential references thereto from the Petitioner's service record and APAR dossier for the year 2013–2014.

54. In view thereof, the decision of the DPC held in November 2017, insofar as it declared the Petitioner unfit for promotion to the rank of DIG, stands vitiated and is accordingly set aside.

55. The Respondents are directed to convene a Review DPC within a period of eight weeks from receipt of a copy of this judgment. The Review DPC shall reassess the Petitioner strictly on the basis of



2026:DHC:3577-DB



lawful service material and without taking into consideration the expunged entries.

56. In the event the Petitioner is found fit for promotion, such promotion shall relate back to the date on which officers junior to him were promoted, with restoration of seniority and fixation of pay on notional basis together with all consequential benefits admissible in accordance with law.

57. It is clarified that this Court has not undertaken any evaluation of the comparative merit of the Petitioner and the assessment of suitability shall remain within the exclusive domain of the Review DPC, subject to compliance with the governing instructions and principles noted in this judgment.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 23, 2026

sp/shah