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

% ***Judgment reserved on: 17.04.2026***
Judgment pronounced on: 16.05.2026

\+ **W.P.(C) 14626/2024 & CM APPL. 55900/2025**

LT COL BHARAT SINGH,
SENA MEDAL .....Petitioner

Through: Petitioner in person.

Versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Mr. Arpan Narwal & Mr. Kushagra Malik, Advs.

Lt Col Tarun, MS Legal and Major Kanika Sharma Army.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

AMIT MAHAJAN, J.

1. The present writ petition, under Articles 226 and 227 of the Constitution of India, has been filed assailing the impugned order dated 26.07.2024, passed by the learned Armed Forces Tribunal,

(hereinafter "***Tribunal***"), whereby the OA No. 769/2023, filed by the Petitioner challenging his Confidential Reports ("***CRs***") for the periods 01.01.2010 to 22.07.2010, 23.07.2010 to 31.12.2010 and 20.06.2011 to 31.12.2011, was dismissed.

2. Succinctly stated, the Petitioner is an officer of the Indian Army presently holding the rank of Lieutenant Colonel. He was commissioned in the Army on 08.12.2001.

3. It is the case of the Petitioner that he was posted at 874 AT Bn, Udhampur (J&K) from 05.05.2009 to 07.06.2011. Two CRs of the year 2010 were initiated incorrectly reflecting him as *Company Commander* (*Coy. Commander*), when the post could have been held only by a Lt. Col/Col, whereas he was holding the rank of a Major. Further, as per Unit Officers Strength Report - IAFF-3008, the officers senior to him in rank and service were incorrectly reflected as serving under his command. Additionally, he was attending a pre-staff course during the period 14.02.2010 to 11.04.2010 and in any case he could not have taken over the appointment of *Company Commander*, which renders the two CRs of 2010 technically invalid.

4. It is further the Petitioner's case that when his CR for the period from 20.06.2011 to 31.12.2011 fell due, he had not completed mandatory physical service of 90 days under his Initiating Officer ("***IO***") and Reviewing Officer ("***RO***"). Though the CR was sent to SRO, who endorsed the remark of "*inadequate knowledge*", the same resulted in the CR being a "*One Man Report*", rendering the same technically invalid.

5. On 20.06.2015 and 22.06.2015, the Petitioner preferred two Non-Statutory Complaint against the CR - 20.06.2011 to 31.12.2011 and CR - 01.01.2014 to 18.06.2014, respectively. *Vide* orders dated 29.01.2016 and 25.03.2016, the above complaints were disposed of while granting the Petitioner, partial relief of expunction of certain figurative assessment and remarks of the RO.

6. In October 2018, the Petitioner was considered by SB-No. 3 Board (Fresh) for promotion to the rank of Colonel, however, he was not empanelled. According to him, the said non-empanelment is a direct consequence of inclusion of certain technically invalid CRs in his profile.

7. The Non-Statutory Complaint dated 13.12.2018, challenging his non-empanelment and the technical validity of the CRs for the period from 01.01.2010 to 22.07.2010, 23.07.2010 to 31.12.2010, 20.06.2011 to 31.12.2011, 01.01.2012 to 30.05.2012 and the assessment of RO in the CR for the period 01.01.2014 to 18.06.2014, was disposed by the Competent Authority *vide* order dated 04.10.2019, and he was granted partial relief of re-consideration as Special Review (Fresh) - 2019.

8. He preferred another Non-Statutory Complaint and, in the interim, he was again considered and not selected/empanelled in SB-3 (First Review) in March-April 2020 as well as SB-3 (Final Review) in October 2020. Ultimately, his Complaint was finally disposed and rejected *vide* Order dated 26.03.2021.

9. Aggrieved thereby, the Petitioner approached the learned Tribunal by way of OA No. 769/2023, which has been dismissed by the impugned order dated 26.07.2024. The learned Tribunal, upon

consideration of the pleadings and material on record, rejected the challenge laid by the Petitioner and upheld the validity of the CRs. The learned Tribunal, *inter alia*, held that *firstly*, the Petitioner had himself signed the CR forms, including the entries pertaining to appointment as Company Commander and service particulars and he had not raised any objection at the relevant time. The challenge to the CRs was raised belatedly, i.e., only after the Petitioner was not empanelled for promotion; *Secondly*, with respect to the alleged discrepancies concerning physical presence and signatures, no material was found to support the allegation of signing under duress or forgery; *Thirdly*, insofar as the CR for the period 2011 is concerned, the mere fact that it may be a "*one-man report*" does not automatically render the CR invalid, particularly when it has been processed in accordance with the governing provisions; and *Lastly*, the Petitioner has already been considered 4 times by the SB No.3 and has not been selected and thus, the Courts/Tribunals cannot review the same in the absence of any *mala fide* or bias.

10. Aggrieved the Petitioner has now approached this Court.

11. The Petitioner, appearing in person, has submitted that the learned Tribunal has passed a non-speaking and mechanical order without due application of mind to the material on record. It is contended that the CRs for the year 2010 are technically invalid as the Petitioner was wrongly shown as *Company Commander* despite being junior in rank, in violation of the Regulations for the Army. There is a mismatch between the appointment reflected in IAFF-3008 and that recorded in the CRs, thereby violating the mandatory provisions of

Army Order 45/2001/MS and rendering the CRs technically invalid. He further submits that though heavy reliance has been placed on him signing the CRs, however, the record reveals that he was on leave on the relevant dates on which his signatures have been obtained, rendering the signatures unreliable.

12. It is further contended that he could not have taken over charge as Coy. Commander, when he was not physically present and was attending a course in Akhnoor.

13. It has also been contended that the CR pertaining the year 2011 was initiated and endorsed without proper sanction, including instances of *ex post facto* approval of the SRO, which is impermissible. It is further contended, with respect to the CR for the period 2011, that the same is a "*one-man report*" and is vitiated on account of the RO allegedly being under disciplinary proceedings, thereby necessitating mandatory endorsement by the SRO.

14. It is further urged that the learned Tribunal failed to appreciate that the governing provisions cast an obligation upon the authorities to identify and exclude technically invalid CRs, even in the absence of a representation.

15. Hence, it is urged that the present petition be allowed and the 3 invalid CRs be expunged.

16. *Per contra*, the learned counsel appearing for the Respondents has supported the impugned order. A preliminary objection has been taken that the present writ is not maintainable as the appropriate remedy, in the form of an appeal under Section 30 of the Armed Forces Tribunal Act, 2007, has not been availed by the Petitioner.

17. On merits, it is submitted that the CRs in question are valid, objective and recorded strictly in accordance with Army Order 45/2001/MS. It is further submitted that the Petitioner himself filled and signed the service particulars in the CR forms and therefore cannot now be permitted to challenge the same. The officer bears the responsibility of correctly filling the service particulars in Paragraphs 1–4 of the CR Form and submitting the same to the IO. It is further submitted that the Petitioner did function as *Company Commander* and the CRs correctly reflect the appointment held by him.

18. It is further submitted that the challenge is grossly belated, having been raised only after his non-empanelment, and is clearly an afterthought. The CRs were correctly accepted as "*Criteria Reports*" commensurate with the appointment held by the Petitioner during the relevant periods, as per Policy Letter dated 28.04.2008, which he himself acknowledged and signed in the CR Forms.

19. It is submitted that the CR for 07/2010–12/2010 was initiated by Lt Col. Eldy P. Elias, Officiating CO 874 AT Bn, under Paragraph 22(b) read with Paragraph 26(c) of Army Order 45/2001/MS. Sanction for initiation was granted by the then Chief of Staff, Northern Command (SRO), on 08.02.2011, and the CR was initiated on 21.03.2011, which has been endorsed by him.

20. It is further submitted that the requirement of 90 days of physical service stood satisfied. The 90 days of physical service are required for initiation of a CR under Paragraph 16 (a) of the Army Order and such period need not be continuous within the reporting year, as clarified in Paragraph 18 of the Army Order.

21. It is further submitted, with respect to the CR of the year 2011, that the same was initiated after due sanction received on 19.03.2015 and the CR was initiated on 21.03.2015, thus, the question of *ex-post facto* approval does not arise.

22. It is further submitted that the Selection Board operates under a well-defined policy framework and the assessment of merit is not amenable to judicial review in the absence of arbitrariness or *mala fides*.

23. Hence, it is urged that the Writ Petition is liable to be dismissed.

24. Arguments heard and the material placed on record, along with the written submissions filed by the parties, perused.

Analysis and Findings

25. At the outset, learned counsel for the Respondents has raised a preliminary objection as to the maintainability of the present writ petition on the ground that the Petitioner has not availed the statutory remedy available under Section 30 of the Armed Forces Tribunal Act, 2007. It is contended that Section 30 of the Armed Forces Tribunal Act provides for an appeal to the Hon'ble Supreme Court against the final orders of the Armed Forces Tribunal, and therefore, the present writ petition is not maintainable.

26. Section 30 and 31 of the Armed Forces Tribunal Act, 2007, provide as under: -

> *"* *CHAPTER V*
> *APPEAL*
> ***30. Appeal to Supreme Court.—****(1) Subject to the provisions of section 31, an appeal shall lie to the*

Supreme Court ***against the final decision or order of the Tribunal*** *(other than an order passed under section 19):*

Provided that such appeal is preferred within a period of ninety days of the said decision or order:

Provided further that there shall be no appeal against an interlocutory order of the Tribunal.

(2) An appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt:

Provided that an appeal under this sub-section shall be filed in the Supreme Court within sixty days from the date of the order appealed against.

(3) Pending any appeal under sub-section (2), the Supreme Court may order that—

(a) the execution of the punishment or the order appealed against be suspended; or

(b) if the appellant is in confinement, he be released on bail:

Provided that where an appellant satisfies the Tribunal that he intends to prefer an appeal, the Tribunal may also exercise any of the powers conferred under clause (a) or clause (b), as the case may be.

31. Leave to appeal.—*(1)* ***An appeal to the Supreme Court shall lie with the leave of the Tribunal; and such leave shall not be granted unless it is certified by the Tribunal that a point of law of general public importance is involved in the decision, or it appears to the Supreme Court that the point is one which ought to be considered by that Court.***

(2) An application to the Tribunal for leave to appeal to the Supreme Court shall be made within a period of thirty days beginning with the date of the decision of the Tribunal and an application to the Supreme Court for leave shall be made within a period of thirty days beginning with the date on which the application for leave is refused by the Tribunal.

(3) An appeal shall be treated as pending until any application for leave to appeal is disposed of and if leave to appeal is granted, until the appeal is disposed of; and an application for leave to appeal

> *shall be treated as disposed of a t the expiration of the time within which it might have been made, but it is not made within that time."*
>
> (emphasis supplied)

27. The above provisions provide the mechanism for preferring a statutory appeal against a final order passed by the learned Armed Forces Tribunal before the Hon'ble Supreme Court. An appeal under section 30 is subject to the provision of section 31, which stipulates that the appeal can be filed only with leave of the Tribunal, and the leave cannot be granted unless it certifies that *a point of law of general public importance is involved in the decision*, or it appears to the Supreme Court that *the point is one which ought to be considered by that Court*.

28. In the seminal decision of ***Union of India v. Parashotam Dass,* (2025) 5 SCC 786**, the Hon'ble Supreme Court unequivocally held that the power of judicial review vested in the High Courts under Articles 226 and 227 constitutes a part of the basic structure of the Constitution and, therefore, cannot be ousted by statute. It was emphasised that the restrictive appellate framework under the Armed Forces Tribunal Act, 2007 may exclude certain categories of cases that do not involve a "*point of law of general public importance*", particularly matters of a personal nature, such as violation of fundamental rights under Part III of the Constitution, jurisdictional errors, or errors apparent on the face of the record and in such circumstances, the High Courts would continue to retain jurisdiction under Articles 226 and 227 to ensure that an aggrieved individual is not left remediless. Accordingly, while underscoring the limited scope and self-imposed restraints governing the exercise of judicial review

under Articles 226 and 227, the Hon'ble Apex Court remanded those matters which did not involve a point of law of general public importance to the respective High Courts for adjudication on merits. The relevant extract is reproduced hereinbelow: -

> ***" 24. We have given thought to the matter, keeping in mind the last aspect emphasised by the learned Additional Solicitor General, dealing with the importance of the Armed Forces Tribunal, and its jurisdiction being distinct from other tribunals. We are conscious of the importance of the role performed by the Armed Forces and the discipline level required by these services. Thus, often many jurisprudential principles of other tribunals cannot be imported into the decisions of the Armed Forces Tribunal. The Armed Forces have their own rules and procedures, and if there is proper exercise of jurisdiction in accordance with the norms of the Armed Forces, the High Court or this Court have been circumspect in interfering with the same, keeping in mind the significance of the role performed by the Armed Forces.***
>
> ***25. While we agree with the aforesaid principle, we are unable to appreciate the observations in Shri Kant Sharma [Union of India v. Shri Kant Sharma, (2015) 6 SCC 773 : (2015) 2 SCC (L&S) 386] , which sought to put an embargo on the exercise of jurisdiction under Article 226 of the Constitution, diluting a very significant provision of the Constitution which also forms the part of basic structure. The principles of basic structure have withstood the test of time and are emphasised in many judicial pronouncements as an ultimate test. This is not something that can be doubted. That being the position, the self-restraint of the High Court under Article 226 of the Constitution is distinct from putting an embargo on the High Court in exercising this jurisdiction under Article 226 of the Constitution while judicially reviewing a decision arising from an order of the Tribunal.***
>
> ***26.*** *On the legislature introducing the concept of "Tribunalisation" (one may say that this concept has seen many question marks vis-à-vis different*

tribunals, though it has also produced some successes), the same was tested in L. Chandra Kumar [L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] case before a Bench of seven Judges of this Court. Thus, while upholding the principles of "Tribunalisation" under Article 323-A or Article 323-B, the Bench was unequivocally of the view that decisions of tribunals would be subject to the jurisdiction of the High Court under Article 226 of the Constitution, and would not be restricted by the 42nd Constitutional Amendment which introduced the aforesaid two Articles. In our view, this should have put the matter to rest, and no Bench of less than seven Judges could have doubted the proposition. The need for the observations in the five-Judge Bench in Rojer Mathew [Rojer Mathew v. South Indian Bank Ltd., (2020) 6 SCC 1] case qua the Armed Forces Tribunal really arose because of the observations made in Shri Kant Sharma [Union of India v. Shri Kant Sharma, (2015) 6 SCC 773 : (2015) 2 SCC (L&S) 386] . ***Thus, it is, reiterated and clarified that the power of the High Court under Article 226 of the Constitution is not inhibited, and superintendence and control under Article 227 of the Constitution are somewhat distinct from the powers of judicial review under Article 226 of the Constitution.***

27. *We also find merit in the contention of the private parties that while the said Act was introduced keeping in mind the earlier observations of the Supreme Court inter alia in Prithi Pal Singh Bedi [Prithi Pal Singh Bedi v. Union of India, (1982) 3 SCC 140 : 1982 SCC (Cri) 642] case, all that has been provided is a single judicial review by the Tribunal against the administrative/disciplinary decision as envisaged in the rules applicable to different Armed Forces.* ***Section 31 of the said Act is undoubtedly restrictive in character as an appeal to the Supreme Court would only lie on a point of law of general public importance. There are, as urged by the learned counsel, a number of issues that cropped up, which are personal in character and do not raise issues of larger public importance.***

28. *We can say with some experience of handling these matters in exercise of jurisdiction under Article 226, prior to the creation of the Armed Forces Tribunal, that there used to be a large number of pension matters. Persons who had served in the Armed Forces were left at bay at the stage of pension.* ***This jurisdiction is also vested with the Armed Forces Tribunal. It would be difficult to say that there would be a larger public interest involved in a pension matter, but then, for that person concerned, it is of great importance. To deny the High Court to correct any error which the Armed Forces Tribunal may fall into, even in exercising jurisdiction under Article 226, would be against the constitutional scheme. The first independent judicial scrutiny is only by the Armed Forces Tribunal. To say that in some matters, a judicial scrutiny would amount to a second appeal, would not be the correct way to look at it. What should be kept in mind is that in administrative jurisprudence, at least two independent judicial scrutinies should not be denied, in our view. A High Court Judge has immense experience. In any exercise of jurisdiction under Article 226, the High Courts are quite conscious of the scope and nature of jurisdiction, which in turn would depend on the nature of the matter.***

30. *How can courts countenance a scenario where even in the aforesaid position, a party is left remediless? It would neither be legal nor appropriate for this Court to say something to the contrary or restrict the aforesaid observation enunciated in the Constitution Bench judgment in S.N. Mukherjee [S.N. Mukherjee v. Union of India, (1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242] case. We would loath to carve out any exceptions, including the ones enumerated by the learned Additional Solicitor General extracted aforesaid as irrespective of the nature of the matter,* ***if there is a denial of a fundamental right under Part III of the Constitution or there is a jurisdictional error or error apparent on the face of the record, the High Court can exercise its jurisdiction. There appears to be a misconception that the High Court would reappreciate the evidence, thereby making it into a***

second appeal, etc. We believe that the High Courts are quite conscious of the parameters within which the jurisdiction is to be exercised, and those principles, in turn, are also already enunciated by this Court.

Xxx xxx xxx

31. *We also fail to appreciate as to why there should be any apprehension of diluting the jurisdiction of the Supreme Court as envisaged under the Act or the constitutional scheme, based on observations made by us in the present judgment.*

Conclusion

32. *We have, thus, no hesitation in concluding that the judgment in Shri Kant Sharma [Union of India v. Shri Kant Sharma, (2015) 6 SCC 773 : (2015) 2 SCC (L&S) 386] case does not lay down the correct law and is in conflict with judgments of the Constitution Benches rendered prior and later to it, including in L. Chandra Kumar [L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] case, S.N. Mukherjee [S.N. Mukherjee v. Union of India, (1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242] case, and Rojer Mathew [Rojer Mathew v. South Indian Bank Ltd., (2020) 6 SCC 1]* ***case making it abundantly clear that there is no per se restriction on the exercise of power under Article 226 of the Constitution by the High Court. However, in respect of matters of self-discipline, the principles already stand enunciated.***

33. *We having now dealt with the general propositions, turn to the individual cases as they may require different nature of orders. In fact, a list of the matters and the nature of orders solicited have also been set out by Mr K. Parameshwar, learned counsel, and are being dealt with as follows:……*

33.3. *The Union of India in Civil Appeal No. 5327 of 2015 titled Union of India v. Thomas Vaidyan M., sought reference to a larger Bench as to, whether, a challenge would lie directly to this Court or only before the High Court.* ***As petitions filed under Article 226 of the Constitution against orders of the Armed Forces Tribunal are held to be***

> ***maintainable, this matter would also require to be remanded to the High Court to be decided on merits since it is a service matter personal to the litigant and does not involve a point of law of general public importance…..”***
>
> (emphasis supplied)

29. Similar view has been taken by a Co-ordinate Bench of this High Court in the case of ***Shyam Naithani v. Union of India,* 2022 SCC OnLine Del 769**, wherein, while rejecting the plea challenging the maintainability of the writ petition filed assailing the final order passed by the learned Armed Forces Tribunal, it was held that: -

> *“CONCLUSION*
>
> *42. To conclude, a Tribunal has to function under the Statute, whereas the higher judiciary (High Courts and the Supreme Court), which is a Constitutional authority, is entrusted not only with the task of interpreting the laws and the Constitution, but also with judicial superintendence over the Tribunals in order to preserve the independence of judiciary while discharging the sovereign function of dispensing justice. The Constitution confers on the Constitutional Court the power of judicial review which is exclusive in nature. Judicial review goes some way to answer the age old question 'who guards the guards'? Judicial review among many other important aspects of the Constitution is indispensable and while creating any other mode of adjudication of disputes, the judicial review cannot be compromised with.*
>
> ***43. Consequently, the power of judicial review has consistently been held to be one of the basic features of the Constitution. Basic feature i.e. forming core structure of the Constitution. The said core structure cannot be affected even by way of constitutional amendment.*** *(See: Kesavananda Bharati Sripadagalveru versus State of Kerala, (1973) 4 SCC 225)*
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> ***44. The jurisdiction of High Court under Articles 226 and 227 of the Constitution cannot be bypassed***

merely by making a provision for direct appeal to the Supreme Court against an order of a Tribunal for the reason that the Apex Court exercises jurisdiction under Sections 30 and 31 of the Armed Forces Tribunal Act, 2007 only if a point of law of general public importance is involved. In Ex. Lac Yogesh Pathania (supra), the Supreme Court has clarified that appeals under the Armed Forces Tribunal Act are considered only if a point of general public importance is involved.

45. The Armed Forces Tribunal Act, 2007 excludes the administrative supervision of the High Court under Article 227(4) of the Constitution but not judicial superintendence and certainly not jurisdiction under Article 226 of the Constitution.

46. In Rojer Mathew (supra) judgment, a Constitution Bench of the Supreme Court has held that Article 226 of the Constitution does not restrict writ jurisdiction of High Courts over the Armed Forces Tribunal observing the same can neither be tampered with nor diluted. Instead, the Supreme Court has held that High Court's jurisdiction has to be zealously protected and cannot be circumscribed by the provisions of any enactment.

47. The Supreme Court in Balkrishna Ram (supra) following the earlier judgment passed by a seven-judges Bench in the case of L.Chandra Kumar (supra) has observed that the writ jurisdiction of High Courts over Tribunals cannot even be taken away by a legislative or constitutional amendments and the 2015 judgment of Union of India and Ors. versus. Maj. Gen. Shri Kant Sharma and Anr.(supra) by a Bench of two Judges cannot overrule the law already laid down. It has also held that the remedy of a direct appeal from the order passed by Armed Forces Tribunal to the Supreme Court would be extremely difficult and beyond the monetary reach of an ordinary litigant. Consequently, the Supreme Court in Balkrishna Ram (supra) reinstated the right to challenge verdicts of the Armed Forces Tribunal in the High Courts."

(emphasis supplied)

30. Hence, a writ petition is maintainable before this court if the same does not raise a point of law of general public importance, as in the present case.

31. However, it would be necessary to reiterate that the scope of judicial review under Articles 226 and 227, particularly in matters relating to service in the Armed Forces, is limited. It was further held in ***Shyam Naithani*** (supra) as under: -

> ***48. However, the Writ Court while examining the judgment/order passed by the Tribunal, will exercise the power of judicial review which means that the Court shall examine the decision-making process and interfere only for correcting errors of jurisdiction or errors apparent on the face of record or if the Tribunal acts illegally. (See: Hari Vishnu Kamath (supra); Surya Dev Rai (supra) and Rajendra Diwan versus Pradeep Kumar Ranibala and Anr. (2019) 20 SCC 143.)***
>
> ***49. This Court would like to emphasise, with all the power that it commands, that judicial restraint should be exercised when the reasons that a tribunal gives for its decision are being examined.*** *Further, the writ jurisdiction of High Court cannot be exercised "in the cloak of an appeal in disguise". (See: Rajendra Diwan versus Pradeep Kumar Ranibala and Anr., (2019) 20 SCC 143).11 "85. The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority.* ***When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised "in the cloak of an appeal in disguise".***
>
> *50. Keeping in view the aforesaid conclusions, the preliminary objection raised by Union of India with*

regard to the maintainability of the present writ petitions is rejected."

(emphasis supplied)

32. This Court does not act as an appellate authority over decisions of expert bodies or the Armed Forces Tribunal. Interference is warranted only where there is manifest illegality, perversity, violation of statutory provisions, or breach of principles of natural justice. Reference is drawn to the judgment in ***Union of India v. Rajasthan High Court,*** **(2017) 2 SCC 599**, wherein the Hon'ble Supreme Court held as under: -

> *"13. .... The powers under Article 226 are wide—wide enough to reach out to injustice wherever it may originate. These powers have been construed liberally and have been applied expansively where human rights have been violated. But, the notion of injustice is relatable to justice under the law. Justice should not be made to depend upon the individual perception of a decision-maker on where a balance or solution should lie. .....The distinction between what lies within and what lies outside the power of judicial review is necessary to preserve the sanctity of judicial power. Judicial power is respected and adhered to in a system based on the rule of law precisely for its nuanced and restrained exercise. If these restraints are not maintained the court as an institution would invite a justifiable criticism of encroaching upon a terrain on which it singularly lacks expertise and which is entrusted for governance to the legislative and executive arms of Government. .....That is the rationale for the principle that judicial review is confined to cases where there is a breach of law or of the Constitution....."*

33. It is also well delineated that the assessment of Confidential Reports and suitability for promotion falls squarely within the domain of the competent authorities and expert bodies. Reference is drawn to the judgment in ***Union of India v. Lt. Gen. Rajendra Singh Kadyan (2000) 6 SCC 698*** wherein the Hon'ble Supreme Court has held as under: -

> *"29. ….. Critical analysis or appraisal of the file by the Court may neither be conducive to the interests of the officers concerned or for the morale of the entire force. Maybe one may emphasize one aspect rather than the other but in the appraisal of the total profile, the entire service profile has been taken care of by the authorities concerned and we cannot substitute our view to that of the authorities. It is a well-known principle of administrative law that when relevant considerations have been taken note of and irrelevant aspects have been eschewed from consideration and that no relevant aspect has been ignored and the administrative decisions have nexus with the facts on record, the same cannot be attacked on merits. Judicial review is permissible only to the extent of finding whether the process in reaching decision has been observed correctly and not the decision as such. In that view of the matter, we think there is no justification for the High Court to have interfered with the order made by the Government."*

34. Keeping he above principles in mind, we may now advert to the facts of the present case.

35. The principal grievance of the Petitioner relates to the alleged *technical invalidity* of the CRs, which was raised before the learned

Tribunal as well and a perusal of the impugned order shows that the learned Tribunal has examined these contentions in detail and has returned findings on each aspect.

36. Insofar as the issue of the two CRs of 2010 (01.01.2010 – 22.07.2019 and 23.07.2010-31.12.2010) and appointment of the Petitioner as *Coy. Commander* is concerned, the learned Tribunal has noted that the CR Form itself provided for a certificate at Para 5 which was to be signed by the Ratee and countersigned by IO/RO and FTO/FSCRO. The relevant extract is reproduced as under: -

> *"it is certified that the requisite physical service conditions as per SAO 3/S/89 under the IO/RO (as applicable) and FTO/FSCRO (where applicable) for initiation/endorsement of the report* ***are fulfilled (this certificate is irrevocable).*** *The certificate* ***rendered by the Ratee*** *gives the appointment held by him/her during the period of report. It is essential for us to place on record the appointments held by the ratee* ***as certified by him: -***

S No	*Appt*	*From*	*To*	*Service in Months*		*Op Rakshak*
				Peace	*Fd/HAA*	
CR 01/01/2010 to 22/07/2010						
(a)	*Coy Cdr*	*01.01.2010*	*21.05.2010*	*04*	*-*	*SCCIA Peace, 71 Sub Area xxxxx*
	Coy Cdr	*22.05.2010*	*22.07.2010*	*-*	*02*	*SCCIA HAA/Fd xxxxx*
CR 13/07/2010 to 31/12/2010						
(b)	*Coy Cdr*	*23.07.2010*	*30.09.2010*	*02*	*-*	*SCCIA Peace, xxxxx*
	Coy Cdr	*01.10.2010*	*21.10.2010*	*-*	*21 days*	*SCCIA HAA/Fd xxxxx*
	Coy Cdr	*22.10.2010*	*30.11.2010*	*01*	*-*	*SCCIA Peace, 71 Sub Area xxxxx*
	Coy Cdr	*01.12.2010*	*31.12.2010*	*01*	*-*	*SCCOA Peace, 71 Sub Area xxxxx*

"

37. The record reflects that even the paramount cards and the complete service records of the Petitioner, as compiled annually and

duly authenticated by him, have been maintained in the CR dossier in accordance with the policy prescribed by the MS Branch, IHQ of MoD (Army). Consequently, any discrepancies, if at all, between the actual appointments held and those reflected in the strength returns (IAFF-3008), as recorded in the impugned CRs, ought to have been raised and contested by him at the time of signing the relevant certifications. Notably no such representation has been placed on record and the same reflects that he had affirmed the correctness of the data in the CR form and his appointment as Coy. Commander. The learned Tribunal has further relied upon extract of *MS letter No A/17159/A/MS4 CR Policy dated 22.07.2014*, which placed the entire responsibility on the Petitioner to authenticate the correctness of his personal data in the Paramount Cards filed with the CR form. The relevant extract s reproduced herein below: -

> *"Tele: 35630*
> *Military Secretary's Branch Integrated HQ*
> *of MoD (Army) DHQ PO, New Delhi - 11*
>
> *A/17159/4/MS 4 CR Policy*
> *21-Jul 14*
>
> *Headquarters*
> *Southern Command (MS)*
> *Eastern Command (MS)*
> *Western Cornmand (MS)*
> *Central Command (MS)*
> *Northern Command (MS)*
> *Army Training Command (MS)*
> *South Western Command (MS)*
> *IDS (MS & SD)*
> *SEC (MS) ANC (MS)*
>
> ***PARAMOUNT CARD WITH CR***
>
> *1. Refer:~*

(a) MS Branch letter N o A/17101/MS 4 Coord dt O4 Oct 12.

(b) MS Branch Ictter No A/17159/4/MS 4 CR Policy dt 05 Feb14.

2. *It has been obs that despite instrs for attaching Paramount Card with CR, a large No of CRs are being recd at MS branch without Paramount Card and in most cases it has not been authenticated by ratee and IO. It is reiterated that the purpose of attaching Paramount Card with CR is primarily to enable iden of anomalies in detls reflected in offr's Paramount Card and initiation of timely corrective action to resolve the same.*

3. *The fwg issues are reiterated for compliance:-*

   a) Print of Paramount Card taken from MS Web ts att with CR.

   b) Anomaly, if any, will be highlighted in the Paramount Card by the ratee.

   c) Paramount Card shall be signed by the ratee and countersigned by his IO.

   d) Requisite docus for updation / rectification will be fwd to concerned sec of MS Branch.

4. ***All offrs should ensure that complete details reflected in Paramount Card incl home town, state, mobile No are correct and updated. Reporting offrs are requested to scrutinise the Paramount Card while processing the CR and ensure that instrs laid down are complied with. Any amdt being sought should be verified by the I0.***

5. *In case of offrs who do not have access to Army Intranet, a copy of Paramount Card can be obtained trom the nearest fmn HQ / unit or the offrs can apch their Controlling Gp / MS Branch for a copy of same*

6. *The above may please be disseminated to all fmns / units under your Jurisdiction. ”*

38. Thus, the entries in the CRs, having been filled and signed by the Petitioner himself, cannot be disregarded, when the accountability for furnishing details and authenticating data was fixed upon the Petitioner/Ratee himself.

39. It was urged by the Respondents that the Pen Picture by IO and Pen Picture by FTO in CR Form, also mentioned that the Petitioner was Coy Commander and the said Pen Picture was shown to him and endorsed by him on 22.07.2010. Though the Petitioner has taken a stand that he was on leave on the date of endorsement i.e. from 21.07.2010 to 03.08.2010. Pertinently, apart from a bald averment of absence, no proof of duress or forgery has been furnished by the Petitioner. Even otherwise, if the case of the Petitioner is taken at the highest, he has not been able to rebut the stance of the Respondents that the CR form (CR for the 2010) *"Record of Service (Change in Year)"* reflects that the Petitioner held the appointment of Coy. Commander and bears the signatures and endorsement of the Petitioner on 31.01.2011. Further at Para 5 for the entry *"Any other personal particulars changed during the years*", *NIL"* has been mentioned, reflecting that the Petitioner was holding the appointment of Coy Commander and was aware of and had consciously endorsed the same. Further, it has also been placed forth by the Respondents that Part I of the CR Form reveals that during the CR period 07.2010-12.2010, the Petitioner had certified and endorsed that he had from *23.07.2010 to 30.11.2010* (4 months), held post of Coy. Commander. The Pen Picture by IO and FTO in the CR Form also mentions that the

Petitioner was Coy. Commander and the said pen picture was endorsed and signed by the Petitioner on 21.03.2011.

40. Hence, after duly considering these aspects, the contention relating to absence during certain periods and alleged impossibility of signing documents, the learned Tribunal observed that the two CRs of 2010 cannot be termed as technically invalid and this Court finds the same to be a plausible view, particularly in the absence of cogent evidence establishing forgery.

41. It is further noteworthy that the Petitioner had, at the relevant time, accepted and functioned in the capacity of Coy Commander without any demur and had availed the authority and position attached thereto. He had filed Non-Statutory Complaints even before the empanelment process but he never questioned the validity of the CRs of 2010 and it is only after his non-empanelment he has sought to challenge his very appointment on technical grounds. This court is in agreement with the view taken by the learned Tribunal that the Petitioner, having accepted the position and acted thereunder, cannot now be permitted to question its validity solely to challenge CRs and he should have contested the same while signing the CRs and endorsing the same.

42. It was also urged by the Petitioner that the mandatory requirement of completion of 90 days of physical service under RO, as contemplated under the applicable Army Orders, was not satisfied. The respondents have explained that Paragraphs 16 (a) and 18 of Army Order 45/2001/MS, make it evident that while a minimum of 90 days' physical service is prescribed for initiation of a CR but such

period is not required to be continuous and may be accumulated over the reporting period. The Respondents have specifically asserted that the Petitioner had completed the requisite period of reckonable service for the purposes of initiation of the CRs. The learned Tribunal has also accepted the said position upon consideration of the material placed on record.

43. Insofar as the contention regarding the Petitioner's absence and lack of interaction with the Inquiry Officer is concerned, the same has also been duly considered by the learned Tribunal. It has been observed that, in the context of the Armed Forces, deployment of officers and personnel is an inherent exigency of service and continuous or frequent physical interaction with the Inquiry Officer is neither practicable nor a prerequisite for fair evaluation. The mere absence of the Petitioner from headquarters, therefore, cannot be accepted as a valid justification for attributing any alleged procedural infirmity or for questioning the assessment made during the inquiry.

44. With respect to the CR for the year 2011, the contention regarding *ex post facto* sanction has also been duly examined. The learned Tribunal rightly observed that the mere fact that the report assumes the character of a "*one-man report*" does not, by itself, render it invalid. This view is founded on the provisions of Army Order 45/2001/MS, which stipulate that the Senior Reviewing Officer (SRO) should *preferably* endorse the report to avoid a one-man report, thereby indicating that such endorsement is directory in nature and not mandatory. Furthermore, it is an admitted position that the Petitioner was, in fact, granted partial redressal in respect of the said CR. The

assessment of the RO was expunged, and the Petitioner was afforded an opportunity for reconsideration by Selection Board No. 3 as a Special Review (Fresh) case for promotion to the rank of Colonel.

45. In view of the aforesaid, and in the absence of any substantiated allegation of bias, *mala fides*, or arbitrariness in the recording of the CR, the learned Tribunal cannot be faulted for declining interference merely on technical pleas, which do not go to the root of the matter.

46. The learned Tribunal has also given a careful consideration to the entire CR profile of the Petitioner. Undisputedly, the Petitioner has been considered 4 times by the SB No. 3 Board but was not empanelled due to his merit in the branch of officers. The details are hereinbelow: -

No 3 SB	*Vacancies of Promotion*	*Order of Merit of Applicant*
(a) Fresh 2001 Batch	*23*	*34*
(b) Special Review (Fresh)	*21*	*Not recorded as the comparison was with Benchmark of 2001 Batch*
(c) Special Review (First Review)	*-*	*Compares with Benchmark of 2002 Batch. Not applicable*
(d) Final Review	*17*	*27*

47. Hence, it was observed by the learned Tribunal that the Petitioner has been duly considered and found unfit for empanelment on merits and when the Respondents have acted as per the policy in vogue, the learned Tribunal ought to exercise judicial restraint in absence of any proof of *mala fide* or arbitrariness.

48. This Court finds that no fresh grounds have been agitated by the Petitioner and the entire challenge essentially seeks a re-appreciation of factual and technical aspects of CR recording, which is impermissible in writ jurisdiction. Upon an overall consideration, this

Court is of the view that the learned Tribunal has examined the matter in detail and has returned findings which are reasonable and based on the material on record. The view taken by the Tribunal is certainly a plausible view and does not suffer from any perversity and thus, no ground is made out to warrant interference in exercise of extraordinary writ jurisdiction.

49. This Court is conscious of the fact that the learned Armed Forces Tribunal is a specialised adjudicatory forum constituted under the provisions of the Armed Forces Tribunal Act, 2007 for determination of service matters concerning Armed Forces personnel. The learned Tribunal comprises both Judicial and Administrative Members possessing expertise and experience in military administration and service conditions. In matters relating to assessment of performance, Confidential Reports, empanelment and comparative merit evaluation, this Court would be slow to substitute its own view for that of expert authorities and the specialised Tribunal.

50. Accordingly, the writ petition is dismissed, along with pending application(s), if any.

AMIT MAHAJAN, J.

ANIL KSHETARPAL, J.

MAY 16, 2026
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