



2026:DHC:8049-DB



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

Date of decision: 17th September, 2026

CNR No. DLHC010442232026

+ W.P.(C) 13628/2026, CM APPL. 63646/2026 – STAY & CM APPL. 63647/2026 – EXMP. FROM FILING CERTIFIED COPIES

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...PETITIONER NO. 1

2. **THE CHIEF OF THE ARMY STAFF, THROUGH**
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...PETITIONER NO. 2

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...PETITIONER NO. 3

Through: Mr. Satya Ranjan Swain, CGSC
with Mr. Sanskar Gupta with
Mr. Tushar Hazrati, Advocates.
Major Anish Muralidhar, Army.

Versus



COL (TS) SUDEEP ROY,
S/O- LATE HONY FG
OFFICER LN ROY, AGED ABOUT 52 YEARS
R/O-MILITARY DENTAL CENTRE,
C/O- MILITARY HOSPITAL, MORAR CANTT,
GWALIOR (MP)
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...RESPONDENT

Through: *Appearance not given.*

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Article 226 of the Constitution of India, 1950, seeks the following prayers:-

“a. Issue an appropriate Writ or writ in the nature of Certiorari or directions setting aside the Order dated 06.01.2026 passed by the Hon'ble Armed Forces Tribunal, Principal Bench, New Delhi in Original Application No. 606 of 2017 titled “*Col (TS) Sudeep Roy v. Union of India & Ors.*” and,

b. Pass other and further order(s) this Hon'ble Court may deem fit and proper in the interest of justice.”

2. On 28.11.1991, the respondent was commissioned as a Lieutenant in the Army Dental Corps (ADC) and was promoted from time to time, upto the rank of Lieutenant Colonel in May, 2005. When the respondent became eligible for promotion to the rank of Colonel,



he was considered by the Promotion Board (Medical) No. 3, as a fresh case, on 22.12.2008. However, he was graded as 'Not Selected (NS)' on the grounds of comparative merits. Aggrieved thereby, the respondent filed a Statutory Complaint dated 02.06.2009 and the same was rejected by the petitioners vide order dated 25.05.2010, being devoid of merit. Thereafter, the respondent was again considered by the Promotion Board (Medical) No. 3 held on 17.12.2009, as a first Review Case, and on 23.12.2010, as a final Review Case; however, the respondent was again graded as 'Non Selected (NS)', on account of comparative merits and limited vacancies, and the same was communicated to the respondent vide letter dated 02.08.2011.

3. The respondent, again, filed a Statutory Complaint dated 28.02.2014 challenging his non-empanelment to rank of Colonel on the grounds of bias, subjectivity and inconsistency, and the same was rejected vide order dated 18.09.2015 passed by the Ministry of Defence, Govt. of India. Aggrieved thereby, the respondent filed Original Application No. 606/2017 before the learned Armed Forces Tribunal, Principal Bench, New Delhi, seeking reconsideration of his promotion to the rank of Colonel. Vide the impugned order dated 06.01.2026, the learned Armed Forces Tribunal allowed the said application and directed the petitioners to consider the case of the respondent afresh for promotion to the rank of Colonel, within a period of three months. Hence, the petitioners preferred the present petition.

4. Learned Counsel for the petitioners submitted that the role of the Armed Forces Tribunal is to check/review the aberrations in the Annual Confidential Reports (ACRs) and not to rewrite the same. Learned



counsel for the petitioners further drew attention of this Court to the box grading provided in the ACRs for the years 1998-1999, 1999-2000, 2001-2002 and 2002-2003, to contend that the said box grading matches well with the pen picture given by the grading Officers and the same were consistent throughout. It was further submitted that the grading Officers had duly recorded the reasons while grading the respondent, and therefore, no interference was called for by the learned Armed Force Tribunal.

5. At this stage, it would be apposite to refer to the findings given by the learned Armed Force Tribunal in the impugned order dated 06.01.2026: -

“The applicant has been graded between 'Outstanding' to 'Exceptionally Outstanding' by all grading officers in the ibid CR except by the HTO. The low grading with a sudden downward moderation by the HTO is an aberration in the ibid CR. Though, the HTO has given justification to his low grading, but talks of events covered from 1998. The CR should be judged on the period covered under the report and not on earlier events, hence HTO assessment merits interference and needs to be expunged. Moreover, though the HTO has given adverse remarks whilst justifying his downgrading the profile of the officer, but the same has not been communicated to the ratee which is not as per the relevant AO i.e. Special Army Order SAO 8/S/91. In this regard, Para 72(f) and 73(b) of the aforesaid SAO under the heading 'PART VII-OBJECTIVITY IN REPORTING AND COMMUNICATION OF CONTENTS (WHEN APPLICABLE TO RATEE)' read as under:

“Consistency in report



72. On receipt in De General Medical Services (DGMS-1A) a CR will be scrutinized for consistency in reporting. The criteria for the same is defined below:

(a)

(b)

(c) xxx xxx

(d)

(e)

(f) Adverse remarks and guidance for improvement - For these to be consistent and acceptable. It will be essential that the remarks endorsed by the reporting officer(s) are supported by figurative assessment in relevant variable of personal qualities and or the demonstrated performance. In addition, the assessment of potential should also be in consonance with the remarks.

73. In case the requirements specified above are lacking in a CR, the concerned reporting officer will be queried by Dte General Medical Services (DGMS-1A), Army HQ. It will there-after be mandatory upon the reporting officer(s) to provide the requisite justification. During this process the following will not be accepted:-

(a) xxx xxx

(b) Exclusion of Adverse remarks or guidance for improvement to avoid communication to the ratee. In case reporting officer(s) fails to communicate the same, the requirement will be executed by Dte General Medical Service (DGMS-1A)."

The non-communication of the adverse remarks is not a mere procedural lapse, but is denial of justice to the officer without giving grounds and an opportunity to



him to put his own point of view. Hence, we consider it necessary to interfere in the entire assessment of the HTO in the ibid CR.

20. In view of the above, it is directed that the following be expunged on grounds of aberration/inconsistency:-

(a) Entire assessment of IO, RO, FTO & STO in ACR 1998-1999.

(b) Entire assessment of IO, RO, FTO & STO in ACR 1999-2000.

(c) Entire assessment of HTO in ACR 2001-2002.

(d) Entire assessment of HTO in ACR 2002-2003.

21. The respondents are directed to consider the applicant afresh for promotion to the rank of Col with the modified profile with the cut-off merit as it existed whilst considering him for the No. 3 Selection Board (Medical) on 22.12.2008 (Fresh consideration), 17.12.2009 (1st Review Case) and 23.12.2010 (Final Review Case). If the applicant is found within merit, the applicant be notionally promoted to the rank of Col (Selection Grade) with consequential benefits. Compliance of the aforesaid directions be made within three months from the date of receipt of a copy of this order.

22. With the aforesaid, the O.A. No. 606 of 2017 stands disposed of.

23. Accordingly, all pending miscellaneous applications also stand closed. There is no order as to costs.”

6. The learned Armed Force Tribunal, after considering the submissions advanced by both the parties, had held that the respondent had been graded between “outstanding” to “exceptionally outstanding”



by all the grading Officers, except by the HTO, and the same was an aberration in the CR, as the same pertained to the events covered from the year 1998. It was further observed that the CR should be judged on the period covered under the report and not on earlier events, and hence, the assessment carried out by the HTO needed interference. It was further observed that the said adverse remarks were not communicated to the respondent, and the said act was not in consonance with the Special Army Order SAO 8/S/91. In such an eventuality, the learned Armed Force Tribunal had directed the petitioners to consider the case of the respondent afresh, for promotion to the rank of Colonel, and if found eligible, the respondent be notionally promoted to the rank of Colonel (Selection Grade) with consequential benefits.

7. In the considered opinion of this Court, the learned Armed Force Tribunal had examined the relevant ACRs and the provisions regarding recording and communication of the remarks, and thereafter, had returned findings qua aberrations in the assessment of the respondent. The argument advanced by the learned counsel for the petitioners, that the learned Armed Force Tribunal had reappreciated the ACRs, therefore, does not merit acceptance.

8. A perusal of the impugned order dated 06.01.2026 further shows that the petitioners were granted three months' time to comply with the same; however, the said order has not been complied with till date. Moreover, the respondent herein, has been superannuated, as stated by the learned counsel for the petitioners.

9. In view of the above, this Court finds no illegality, perversity or



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jurisdictional error in the impugned order dated 06.01.2026, thereby warranting interference under Article 226 of the Constitution of India, 1950, and therefore, the same is upheld.

10. The present petition stands dismissed and disposed of, accordingly.

11. Pending application(s), if any, also stands disposed of.

12. Order be uploaded on the website of this Court, forthwith.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

SEPTEMBER 17, 2026/db