



2025:DHC:1575-DB



\$~12

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

Date of decision: 10.3.2025

+ **W.P.(C) 14448/2021**

ANIL KUMAR S V

.....Petitioner

Through: Ms.Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.B.S.Shukla, CGSC with
Mr.S.Kumar, Mr.Satyam Singh,
Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

%

10.03.2025

1. This petition has been filed by the petitioner, challenging the 'Annual/Part Performance Assessment Report' (APAR) for the period from 01.04.2018 to 31.03.2019, and the rejection of his representations against the same by the Orders dated 26.03.2020, 22.08.2020 and 31.12.2020.

2. In a nutshell, it is the case of the petitioner that the petitioner joined at the Rank of Naik (Radio Operator) in the Border Security Force (BSF) on 14.12.1989. While holding the rank of the Asstt. Sub-Inspector (Radio Operator), the Initiating Officer for his Impugned APAR gave the following pen picture along with an overall grading of '6.51', which is equivalent to a 'Very Good':-



A good Radio operator having knowledge to perform duties in Signal Centre as well as posts.

3. The Reviewing Officer also agreed with the pen picture of the Initiating Officer, and gave him an overall grading of '6.58', which is equivalent to a 'Very Good', with the following remarks:

I agree with the remarks of '6.58' 'Very Good'

4. However, the Accepting Officer gave an adverse remark against the petitioner in the pen picture and also downgraded his overall grading to '5.8', which is equivalent to a 'Good'. The remarks are reproduced hereinunder:

Individual is shirking from the responsibilities, sense of responsibility and discipline is not satisfactory. I grade him a "Good 5.8".

5. On the adverse remarks being communicated to the petitioner by a Memo dated 14.09.2019, the petitioner represented against the same, which representation came to be rejected by an Order dated 26.03.2020 passed by the Commandant 67th Bn., BSF.

6. Aggrieved thereby, the petitioner made a further representation to the Deputy Inspector General SHQ BSF, Dhubri (Assam).



2025:DHC:1575-DB



However, the same was also rejected by an order dated 22.08.2020, stating that only one representation against the adverse APAR is permissible and therefore, his second representation was not maintainable.

7. The petitioner made a further appeal to the DIG, BSF Dhubri. However, the same was rejected *vide* the Order dated 31.12.2020 as being not maintainable. The petitioner has therefore, approached this Court in form of the present petition.

8. The learned counsel for the petitioner submits that in his entire service career, the petitioner has always been graded 'Very Good' except in the Impugned APAR. She further submits that there were no warnings, censure or other disciplinary proceedings against the petitioner in the impugned period in question. She submits that on the contrary, the petitioner was given two cash rewards in the said period. She submits that therefore, the adverse remarks given by the Accepting Officer are liable to be set aside.

9. On the other hand, the learned counsel for the respondents submits that in the chain of writing APAR, the opinion of the Accepting Officer is entitled to equal weightage. He submits that before rejecting the representation of the petitioner, the remarks/input was obtained from the Accepting Officer, who had stated as under:

"2. In ref to above letter, it is to inform you that No.893870090 ASI/RO Anil Kumar S V was assessed for the year 2018-19 by the undersigned. During the period under report when the incumbent was deployed in Border Area for duties of Coy HQ Signal Centre, the



Coy Comdrs of concerned Coys reported the matter man, times that ASI/RO Anil Kumar S V is high-headed and reluctant to his duties, they further reported that individual is not interested to perform the duties in Border area more over by manipulating one or another way he always tried to stay at BN HQ.

3. At Bn HQ, his sense of responsibility and performance was just satisfactory, he always avoided to take any responsibility and at many times, he was found absent from duty at BN HQ Signal Centre for which he was warned by me in person in presence of Signal Staff and other Officer's."

10. He submits that therefore, the Accepting Officer has given cogent reasons for downgrading the petitioner and for making adverse remarks in his APAR. He submits that it is only where there is any procedural violation or the remarks are found to be totally arbitrary, that the Court would interfere with the same.

11. We have considered the submissions made by the learned counsels for the parties.

12. It is not denied that in the present case, the petitioner has been always graded as 'Very Good' except in the Impugned APAR. Even for the Impugned APAR, the Initiating Officer and the Reviewing Officer have graded him as 'Very Good', giving him a good pen picture. The Accepting Officer, however, did not agree with the Initiating and the Reviewing Officer and made specific adverse remarks of the petitioner 'shirking from the responsibility'.

13. When his comments were sought on a representation of the petitioner, the Accepting Authority made reference to the reports being received by him from the border area from the Coy. Cmdr. of



the petitioner of him being high-headed and reluctant to perform his duties. He stated that the petitioner was also found to be manipulating, one or the other way, and trying to stay at the Battalion Headquarters, where his sense of responsibility and performance was only satisfactory. He stated that the petitioner had also been warned by him in the presence of Signal staff and the other officers.

14. Interestingly, there is no record of any of these allegations against the petitioner, be it complaints from the Coy. Cmdr. or the petitioner manipulating his posting at the Battalion Headquarters and, if so, action taken against the petitioner for the same.

15. In *State of UP vs. Yamuna Shankar*, (1997) 4 SCC 7, the purpose of writing of the APAR has been explained by the Supreme Court by observing as under:

“7. It would, thus, be clear that the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. ...The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon facts or circumstances. Though sometimes, it may not be part of the record, but the conduct, reputation and character acquire public knowledge notoriety and may be within his knowledge. Before forming an opinion to be adverse, reporting officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information



confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgement, conduct, behaviour, integrity or conduct/corrupt proclivity. If despite being given such an opportunity, the officer fails to perform the duty, correct his conduct or improve himself, necessarily the same may be recorded in the confidential reports and a copy thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any judicial forum for redressal. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standard of excellence in services constantly rises to higher levels and it becomes a successful tool to manage the services with officers of integrity, honesty, efficiency and devotion.”

16. In this regard, we may also note the observations made by this Court in ***Sanjeev Dhundia vs. Union of India & Ors.***, 2020 SCC Online Del 1842:

"19. ...Writing in the APAR that the petitioner had not shown initiative or had to be prodded or had to be nudged into action, without quoting specific instances, which were also followed up and substantiated by written advisories for improvement, and relying on letters sent in the early part of the assessment year, which in any case do not qualify as advisories, to make such adverse remarks in the APAR, leaving no opportunity for the petitioner to improve his performance, militates against principles of natural justice and the objectives of recording the APARs no efforts seem to have been made by Respondent



2025:DHC:1575-DB



to find out the causes why the performance of the petitioner who was an “outstanding” officer had in that year fallen so steeply, and to thereafter, make efforts to remove the issues interfering with excellence in performance of his duties. Moreover, when no written advisories were issued to the petitioner to improve his performance, it cannot be concluded that the petitioner had continued with unsatisfactory performance despite cautioning and opportunities to improve, to substantiate the adverse remarks recorded by Respondent.”

17. In the present case, as would be evident from the above, the petitioner apart from not being given any warnings or memo of his alleged dereliction of duties, has in fact been given cash rewards. The same does not lie in consonance with the remarks of the Accepting Officer. Further, the petitioner’s immediate superiors, that is, the Initiating Officer and the Reviewing Officer, have both given him a flowery pen picture as also a ‘Very Good’ grading. These factors taken cumulatively, do not inspire confidence in the report of the Accepting Officer and we find no justification for the same.

18. Accordingly, the adverse remarks and the grading of the Accepting Officer in the Impugned APAR of the petitioner for the period from 01.04.2018 to 31.03.2019 are hereby set aside. The Impugned Orders dated 26.03.2020, 22.08.2020 and 31.12.2020 are also set aside.

19. The Impugned adverse remarks and grading of the petitioner shall not be considered for any promotion or other benefit due to the petitioner.



2025:DHC:1575-DB



20. The petition is allowed in the above terms.

NAVIN CHAWLA, J

MANOJ JAIN, J

MARCH 10, 2025
RN/IK

Click here to check corrigendum, if any