



2025:DHC:2889-DB



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

***Reserved on: 04.02.2025***  
***Pronounced on: 25.04.2025***

+ W.P.(C) 14182/2021  
PRAVINAST PANDEY .....Petitioner  
Through: Mr.Bhanu Gupta, Adv

versus

UNION OF INDIA & ORS. ....Respondents  
Through: Mr.Raj Kumar Yadav, SPC  
with Mr.Vaibhav Bhardwaj &  
Ms.Tripti Sinha, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE SHALINDER KAUR**

### **J U D G M E N T**

#### **NAVIN CHAWLA, J.**

1. The present petition has been filed by the petitioner, praying for the following reliefs:

“(i) *Issue a writ of certiorari for quashing of order dated 22.07.2021 to the extent whereby the respondents have not taken into consideration the remaining adverse noting of the initiating officer and has not taken into consideration the past performance of the petitioner in accessing him/improving upon the overall grade in APAR for the period 13.08.2019 to 31.03.2020 and thereby partially allowed the representation dated 02.03.2021 and for quashing of letter dated 13.12.2019 whereby the respondents have issued advice to the*



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- petitioner and for quashing of letter dated 17.02.2020 whereby the second advice was issued to the petitioner for submitting his representation against the first advice and for quashing of letter dated 06.03.2020 whereby the third advice was issued to the petitioner within a period of three months and for quashing of APAR of the petitioner for the period 13.08.2019 to 31.03.2020 to extent where initiating officer has mentioned the advices issued by him has been noted in the APAR and for quashing of advice dated 06.08.2020 issued by IG, BSF and for quashing of order dated 18.03.2021 whereby DG's displeasure was issued to the petitioner; AND*
- (ii) *Issue a writ of mandamus directing the respondents to expunge the part of APAR wherein it mentions of advices and for issuance of a writ of mandamus directing the respondents to review the APAR for the period 13.08.2019 to 31.03.2020 and to upgrade the overall grade from 5.5 to in line with the APAR of his past performance.”*

### **Brief Facts**

2. The facts giving rise to the present petition are that the petitioner was appointed to the rank of Assistant Commandant (Direct Entry) in the BSF on 05.02.2010. He was promoted to the rank of Deputy Commandant on 09.11.2016.
3. The APAR gradings of the petitioner preceding the impugned period are as under:

<i>Year (Period)</i>	<i>Grade</i>	<i>Integrity</i>
<i>05.12.2013 to 31.03.2014</i>	<i>7.85</i>	<i>BEYOND DOUBT</i>



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29.06.2015 to 31.03.2016	7.60	BEYOND DOUBT
25.06.2016 to 08.11.2016	8	BEYOND DOUBT
09.11.2016 to 31.03.2017	7.65	BEYOND DOUBT
01.04.2018 to 31.03.2019	9.2	BEYOND DOUBT

4. It is the case of the petitioner that he has performed his duties with utmost sincerity and satisfaction, due to which, throughout his career, he has received appreciation and various commendation rolls, such as multiple IG's Recommendation, DG's Commendation, and the same is reflected in his APAR gradings.

5. The petitioner was relieved for joining the 150<sup>th</sup> Bn, Sanai, Gandhidham, which he joined on 13.08.2019. He was assigned the duties of DC (Trg) and 'SP' Coy Commander with an additional assignment of Grocery Officer, *vide* Order dated 31.08.2019.

6. The petitioner claims that the Commandant and other senior officers of the 150<sup>th</sup> Bn had issues with him as he was a hindrance to their corrupt activities, due to which he was being discriminated against in terms of his duty assignments and other practices. In this regard, the petitioner wrote a Letter dated 23.11.2019 to the Commandant, suggesting certain re-structuring mechanisms for the better functioning of the Battalion.

7. In the meantime, on 22.11.2019, the petitioner was detailed to undergo a 'Law Capsule Course' at FTR HQ Gujarat. It is the case of the petitioner that he immediately searched for a train ticket but due to the unavailability of the same, he requested the Second-in-Command ('2IC') for a light vehicle, which was denied. Aggrieved thereof, the



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petitioner wrote a Letter dated 24.11.2019 to the Commandant, expressing his inability to perform the journey in case his train ticket did not get confirmed. The petitioner claims that he was, however, not accommodated. The petitioner states that he managed to attend the said course only because his train ticket got confirmed.

8. In reference to the Letters dated 23.11.2019 and 24.11.2019, the petitioner was issued an Advice dated 13.12.2019 by the Commandant 150<sup>th</sup> Bn BSF to “*develop interest in performing duties in a professional manner and at the same time take initiatives for corrective measures if required taking decision from channel of command*”.

9. In response thereto, the petitioner submitted a representation dated 28.12.2019. The petitioner was, however, issued another Advice dated 17.02.2020 to “*develop interest in performing duties in professional manner*”.

10. Aggrieved thereby, the petitioner submitted a representation dated 20.02.2020.

11. The petitioner claims that *vide* Signal dated 01.02.2020, he was nominated for the Basic Intelligence Course (BIC) Srl No. 181 with the condition that he shall be sent for the same only after obtaining confirmation from the GTS. The petitioner claims that for the said purpose he tried contacting the GTS telephonically but received no response. He then issued a Signal dated 28.02.2020 to know the status of the confirmation of his nomination, but in response thereto, the GTS *vide* Signal dated 03.03.2020, instructed the Commandant to



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direct the petitioner to follow the channel of correspondence and not to originate direct messages. Thereafter, the petitioner was issued Advice dated 06.03.2020 by the Commandant "to adhere to the laid down norms in letter and spirit" and that "any deviation would invite disciplinary action". On the same day, the petitioner was relieved of his main duty of DC/Trng.

12. Aggrieved thereof, the petitioner wrote a DO Letter dated 11.03.2020 to the DG BSF, to look into the matter. On the same day, he also made a representation against the Advice dated 06.03.2020 and raised a request for a DG interview on 11.03.2020. The same was given to him on 20.11.2020, however, the petitioner claims that his grievance remained unresolved.

13. The petitioner claims that *vide* Order dated 16.04.2020, he was also relieved of all his additional duties.

14. Aggrieved thereof, the petitioner made a representation dated 21.04.2020 to the Commandant, raising queries regarding necessary approvals required for removing the petitioner from his duties.

15. Thereafter, two Staff Courts of Inquiry ('SCOI') were ordered against the petitioner by the SHQ BSF Bhuj, *vide* Orders dated 30.04.2020 and 01.05.2020.

16. The SCOI, detailed *vide* Order dated 30.04.2020, was to look into the following issues:

*"a) As Presiding Officer of Board of Officers detailed for CAP to find out the needy civil population, Shri Pravinast Pandey, DC failed to make physical verification and instead put blame on Shri Sajjan Singh, AC of*



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*150 Bn BSF who had said that the unit Commandant had asked him to sign on the board proceeding only.*

*b) Shri Pravinast Pandey, DC 150 Bn BSF, made night stay with his family in the forward BOPs from 13.01.2020 to 15.01.2020 without intimating Adjutant and Commandant/Offg Commandant of the Bn which is against the discipline of the Force.*

*c) Officer has the tendency to ignore the instructions issued by superior officer and did not take the advice of superior officers in right perspective and instead of improving his conduct and functioning, replied in more arrogant manner.*

*d) Despite advisories issued by Unit Commandant, Shri Pravinast Pandey, DC 150 Bn BSF, has not followed SOPs and established procedures and obstructed in smooth functioning of Unit which are serious in nature.”*

17. The SCOI found the petitioner blameworthy and the same was agreed and finalised by the IG, Ftr HQ BSF Gujarat, *vide* Remarks dated 30.07.2020, thereby directing that IG’s Advice be issued against the petitioner for violating SOP/established procedures and obstructing the smooth functioning of the Unit. Further, IG’s Advice dated 06.08.2020 was issued to the petitioner *"to be more careful in future and not to repeat such acts of unbecoming of an officer. Any repetition of such acts will be viewed seriously and appropriate action will be taken against you as per the provisions of BSF Act & Rules"*.

18. The other SCOI, detailed *vide* Order dated 01.05.2020, was to report on the following:

*“(a) The officer has forwarded his nomination to higher HQs for detailment on Basic Intelligence Course (BIC) Srl No. 181*



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*without approval of unit Commandant. He himself originated message leaving behind other nominations thereby violating the procedure.*

*b) The officer himself originated the message to FHQ (GTS), New Delhi asking confirmation about his detailment on BIC. Thus, officer failed to follow proper channel of Correspondence and violated the instructions issued vide DOP&T OM No. 11013/08/2019-Estt(A-III) dated 31/08/2015 for which he was advised by Unit Commandant as desired vide FHQ (GTS) Sig No. G/2644 dated 03/03/2020.*

*c) The officer has made representation against the directions issued vide FHQ (GTS) Sig No. G-2614 dated 03/03/2020 and wrote DO letter dated 11/03/2020 to DG BSF, thus, again violated the instructions issued vide DOP&T OM No. 11013/08/2013-Estt(A-III) dated 31/08/2015.”*

19. The second SCOI also found the petitioner blameworthy and IG's advice dated 09.09.2020 was issued to the petitioner by the IG, Ftr HQ BSF Gujarat. Later, however, the said IG's Advice was withdrawn *vide* Order dated 05.03.2021, and DG's Displeasure *vide* Order dated 18.03.2021, was issued to the petitioner for violation of the channel of correspondence and making direct representation to the DG BSF thereby violating the laid down norms.

20. The petitioner claims that in the *interregnum*, on 04.05.2020, he had addressed a letter to the Commandant raising queries with respect to the functioning of the Battalion and the allegations levelled against him. He further claims that *vide* Letters dated 06.05.2020 and 08.05.2020, he had requested for all necessary documents to enable him to prepare his defence, which was, however, rejected *vide* letter



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dated 19.05.2020. The petitioner claims that *vide* Letter dated 09.05.2020 addressed to the Director General, he had also explained the irregularities and corrupt activities committed by the Commandant and others.

21. Since the petitioner did not receive a response to the above letter, in January 2021, he sent a legal notice to the DIG, BSF seeking withdrawal of the Advices. The said notice was responded to on 15.04.2021 by the DIG, stating that the petitioner had been advised by the Commandant 150 Bn BSF to work as a team, but the petitioner has not improved, causing the Unit to suffer.

22. Meanwhile, the petitioner was also given his APAR form for the period 13.08.2019 to 31.03.2020 for the year 2019-20 and was asked to submit his self-appraisal by 05.04.2020. The petitioner submitted the same on 03.07.2020.

23. The Initiating/Reporting Authority, however, disagreeing with the Self-Appraisal, observed as under:

*“I generally do not agree. The appraisal has been exaggerated. He has been advised on many occasions verbally as well as in writing to improve upon his functioning but he never took advises in right perspective.”*

24. Further, in the Pen Picture, while giving the petitioner 2.86 Marks out of 10, he gave the following adverse remark:

*“During the period under report, officer performed the duties of staff officer. Officer lacks professional knowledge & his performance is found to be below standard. Despite proper guidance, counselling officer showed no improvement rather constantly*



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*made efforts to hide facts and mislead the command for various personal benefits. Officer has been advised by one one vide L/no steno/Advise/150/2019/01 dated 13/12/2019, No 920/Advise/150/2020/20-21/dated 17/2/20 & No 920/Advise/50/2020/22-23 dated 6/3/20 to improve upon his performance but he did not take the advises in right perspective."*

25. The Reviewing Authority gave the petitioner 4.3 Marks out of 10, and observed as under:

*"I have seen the performance of the officer of the period. The IO has given him less mark. However, the offr has been advised by the IO many times but the offr has not shown any improvement"*

26. The Accepting Authority (AA), in agreement with the Reviewing Officer, gave the petitioner 4.3 Marks out of 10 in the said APAR.

27. The petitioner was communicated the adverse remarks and below benchmark grading recorded in his APAR, *vide* Letter dated 15.02.2021.

28. The petitioner made a representation against the adverse remarks and grading recorded, to the SDG BSF (Western Command) on 02.03.2021.

29. The said representation of the petitioner was partially allowed *vide* Order dated 22.07.2021, and the Competent Authority increased his overall marks from "4.3" to "5.5" and expunged the adverse remarks given by the Initiating Officer in the Impugned APAR of the petitioner.



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30. Not satisfied with the above order to the extent that it did not fully expunge the adverse remarks and the overall grading was not enhanced, the petitioner has filed the present petition.

31. On the other hand, it is the case of the respondents that the petitioner, on reporting to the 150<sup>th</sup> Bn, was detailed to undergo a 'Law Capsule Course', however, he expressed his inability to attend the same as his railway ticket was not confirmed. The petitioner requested for a government light vehicle, for which there was no provision. He also complained about the unequal distribution of temporary duties and other duties amongst staff officers/DCs, for which he was advised by the Commandant 150<sup>th</sup> Bn on 13.12.2019 to develop an interest in performing duties in a professional manner and also to take initiatives for corrective measures, if required, after taking approval from the channel of command. The said advice was also not appreciated by the petitioner, who wrote a letter against the same, in which regard he was issued another Advice dated 07.02.2020, again advising him to develop interest in performing duties in a professional manner.

32. It is the case of the respondents that the petitioner had also sent his own nomination to the HQRs for detailment on a Basic Intelligence Course (BIC) Srl No.181 without the approval of the Unit Commandant, and also originated a message dated 28.02.2020 to the FHQ (GTS), New Delhi, asking for confirmation about his detailment to the said course. As the petitioner failed to follow the proper channel of correspondence, the FHQ (GTS), *vide* a Signal dated 03.03.2020,



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instructed the Commandant, 150<sup>th</sup> Bn, BSF, to direct the petitioner to follow the channel of correspondence and not originate direct messages. Accordingly, the petitioner was issued yet another Advice dated 06.03.2020, asking him to adhere to the laid down norms in letter and spirit and that any deviation therefrom would invite disciplinary action.

33. It is the case of the respondents that the petitioner, however, did not mend his ways and again directly wrote to the DG, BSF, a DO letter dated 11.03.2020 against the Advice issued by FHQ (GTS). The respondents claim that the petitioner even used sarcastic remarks for the GTS, New Delhi, in the said letter.

34. Since the petitioner was not adhering to the instructions, two SCOIs were ordered against him. The petitioner was found blameworthy in both the SCOIs, and accordingly IG's Advice dated 06.08.2020 and DG's Displeasure dated 18.03.2021 were issued to the petitioner.

35. As far as the APAR for the period 13.08.2019 to 31.03.2020 is concerned, it is the case of the respondents that the representation of the petitioner was duly considered by the competent authority, and not only were the adverse remarks against him expunged, but his grading was also improved from '4.3' to '5.5', *vide* Order dated 22.07.2021.

36. The respondents, therefore, prays for the dismissal of the present petition.

**Submissions of the learned counsel for the petitioner**



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37. The learned counsel for the petitioner submits that the petitioner, prior to joining the 150<sup>th</sup> Bn, had always been graded as “*Very Good*” or “*Outstanding*” as would be evident from the table mentioned hereinabove. He submits that only because the petitioner made complaints regarding the working of the Commandant, 150<sup>th</sup> Bn, he was not only visited with repeated Advices, which were issued with a *mala fide* intent, but was also given adverse remarks and gradings in his APAR.

38. Placing reliance on the judgments of the Supreme Court in *M.A. Rajasekhar v. State of Karnataka & Anr.*, (1996) 10 SCC 369; *Sukhdeo v. Commissioner Amravati Division, Amravati & Anr.*, (1996) 5 SCC 103; *State of U.P. v. Yamuna Shanker Misra & Anr.*, (1997) 4 SCC 7; and of this Court in *Insp./GD Krishna Rajak v. Union of India & Ors*, 2012:DHC:5274-DB and Order dated 10.04.2019 in W.P.(C) 10486/2017 titled *Vidya Shankar Tiwari v. Union of India and Ors.*, he submits that the adverse remarks given to the petitioner in his APAR, as also the Advices and Note of Displeasure, are liable to be set aside.

**Submissions of the learned counsel for the respondents**

39. On the other hand, the learned counsel for the respondents, placing reliance on the judgment of the Supreme Court in *Air Vice Marshal S.L. Chhabra, VSM (Retd.) v. Union of India & Anr*, 1993 (2) SCALE 885, and of this Court in *HC (MIN) Jai Prakash v. Union of India & Ors.*, 2019:DHC:1221-DB, submits that the representations of the petitioner have been duly considered by the



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competent authorities. He submits that the petitioner has, in fact, been issued the IG's Advice and the DG's Displeasure for the infractions committed by him.

40. As far as the APAR is concerned, he submits that the competent authority has considered the representation of the petitioner, and has not only expunged the adverse remarks given by the Initiating Officer but has also improved his grading. He submits that this Court cannot act as an Appellate Court over these decisions and review the same.

**Analysis and Findings**

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

42. From the above narration of facts, it is apparent that the petitioner, before being posted at the 150<sup>th</sup> Bn, had been graded as either "Very Good" or "Outstanding" in his APARs. He had also been awarded multiple recommendations and commendations, as have been detailed in the petition. His trouble started upon his joining the 150<sup>th</sup> Bn. His first correspondence dated 23.11.2019 to the Commandant, 150<sup>th</sup> Bn BSF would give an insight into what would eventually snowball into the present petition. The same is reproduced hereinunder:

*"SUB: REGARDING EQUAL  
DISTRIBUTION OF TEMPORARY DUTIES  
AND OTHER DUTIES AMONG STAFF  
OFFICER'S/ DC'S*

*Sir,*

*With due respect I IRLA No. 11006510  
PRAVINAST PANDEY, DC want to*



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*submit:-*

*1. That on 13/08/19 I joined 150 Bn BSF. After a lapse of some 15 days, I have been assigned charges of DC (Trg), Coy Comdr SP Coy etc.*

*2. That structure of training and SP Coy requires re-structuring for smooth functioning as present structure is faulty (need less to mention that here is no functional office of SP Coy, BN lacks training team, even I do not have any fix place to sit in and work and any almirah etc to keep documents).*

*3. That though TD's / other duties / enquiries etc are at higher side yet equal distribution of these among officers will ease burden on one officer and on the other hand it can enhance exposure of other officers. Along with it all officers would be able to give time to their main charges, able to make themselves healthy, able to maintain a balance between their personal and professional life.*

*4. That equality among pers creates conducive atmosphere and keeps motivation level high.*

*In view of above, I request you to personally look in to the matter so that additional duties / temporary duties / enquiries etc may be distribution equally among all staff officers / DC's."*

43. Simultaneous to the above letter, the petitioner was also detailed to attend a 'Law Capsule Course' at the FHQ, Gujarat. The petitioner, by his letter dated 24.11.2019 to the Commandant, 150<sup>th</sup> Bn BSF, had expressed his inability to attend the said course unless he gets a confirmed train ticket. We reproduce the letter as under:



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*“SUB: IN ABILITY TO PERFORM JOURNEY  
AS PER MOVEMENT ORDER NO.  
TRG/ COURSE/ M-  
ORDER/150BN/2019/11220-23 DATED  
23 NOV 2019*

*Sir,  
With due respect I IRLA No. 11006510  
PRAVINAST PANDEY, DC want to inform  
you:-*

*1. That on 22/11/19 at about 2030 Hrs, it has  
been informed to me verbally by you that I  
have to attend Law course at Ftr HQ Gujarat.*

*2. That on 23/11/19, I requested for RMS of a  
light vehicle which has been directed by 2IC  
(Adm) and I have been directed to perform  
journey by train.*

*3. That after visiting IRCTC site, on 23/11/19  
it came to my notice that all trains at that  
route do not have confirmed ticket.*

*4. That I requested for permission to perform  
journey in my own car but due to poor health I  
am unable to drive vehicle for such a longer  
route.*

*5. That I have purchased waiting list ticket, if  
it gets confirmed in that case only, I am able to  
perform journey as mentioned in movement  
order.*

*In view of above, hereby I am expressing my  
inability to perform journey from Gandhidham  
to Ahmedabad (except in the case of Para No.  
5) which will result in to non-attendance of  
Law Capsule course.”*

44. The above correspondence would show that the petitioner, immediately upon joining his place of posting at the 150<sup>th</sup> Bn, was



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aggrieved by extra duties being assigned to him and complained of unequal distribution of duties amongst the officers. He also expressed his displeasure on being detailed for the 'Law Capsule Course'. The Commandant, 150<sup>th</sup> Bn BSF, therefore, issued him an Advice dated 13.12.2019, which is self-speaking and reads as under:

***“Sub: ADVISE***

*Kindly refer Pra/Gra/Nov/TD/01 dated 23.11.2019 and Pra/Return/MO/Nov-01 dated 24.11.2019.*

*2. The above mentioned letters are quite strange and not expected from a mature officer like you. Every day in the morning and in the evening we meet in the office during tea and you could have easily discussed all the issues but you have never spoken about it.*

*2. Regarding your inability to perform journey for Law course in Gandhinagar on the pretext of waiting list ticket is also surprising you could have easily travelled by bus, as very good bus facility is available from Gandhidham to Ahmadabad and TA/DA always be claimed pat rules which you must know by reading rule books as an officer.*

*3. Your demand regarding light vehicle for attending one week course is wrong. There is no provision for providing Govt. vehicle for attending course and if you had any illness you should have represented with connecting medical documents.*

*4. According to you, you were assigned the duties of DC(Trg) & SP Coy Comdr etc after the lapse of 15 days, but 15 days in quite a reasonable time for any officer to acclimatize and familiarizes with the Bn AOR and unit*



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*personnels So its not a lapse rather facility given to you so that you make yourself comfortable on your personal & Official front before assigning any responsibility.*

*5. You are not guest Officer here, if you think the structure of training and SP company requires restructuring and present structure is faulty it is your responsibility to take corrective measures after discussing it with channel of command.*

*6. Till now you have been detailed for only one out duty and other for one week Law course and you were the only option available with us for said detailment but after reading your letter it seems that if you are detailed for any out duties you become uncomfortable for the reasons best known to you.*

*7. You are hereby advised not to behave like a guest officer and develop interest in performing duties in a professional manner and at the same time take initiatives for corrective measures if required taking decision from channel of command.”*

45. The petitioner, being aggrieved by the same, submitted yet another representation dated 28.12.2019, the tenor of which leaves much to be desired. He was, therefore, issued yet another Advice by the Commandant, 150<sup>th</sup> Bn BSF, on 17.02.2020. Reference was also made in the said Advice to the other misconducts of the petitioner.

46. Thereafter, the petitioner also issued a direct Signal dated 28.02.2020 to the GTS FHQ regarding his nomination for the BIC Srl No.181. The GTS FHQ, by its Signal dated 03.03.2020, in fact, advised the Commandant, 150<sup>th</sup> Bn, to direct the officer to route his representation through the proper channel of command and follow the



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channel of correspondence and not originate direct signals. This led to the issuance of a third Advice dated 06.03.2020 by the Commandant, 150<sup>th</sup> Bn.

47. The petitioner has also been issued the IG's Advice dated 06.08.2020 and the DG's Displeasure dated 18.03.2021 for being found blameworthy in the two SCOIs detailed against him.

48. There was, therefore, enough material to support the overall grading given to the petitioner and the remarks about the advices and displeasures being reflected in the Impugned APAR of the petitioner, as modified by the order dated 22.07.2021, passed by the competent authority on the representation of the petitioner.

49. We need not make a detailed reference to the judgments cited hereinabove by the learned counsels for the parties. Suffice it to say that it is now well established that this Court, in exercise of its powers under Article 226 of the Constitution of India, against the Advice issued to an officer, or on a challenge made to the APAR, does not act as a Court of Appeal; its jurisdiction is limited to considering whether there has been a procedural lapse by the competent authorities or whether the decision arrived at by the competent authority is not supported by any material. It has also been held that where there is a consistent grading of the officer as "Very Good" or "Outstanding" and suddenly an officer is downgraded to even "Average," an eyebrow would be raised and the respondent would be asked to substantiate the basis on which the officer has been downgraded. After all, the purpose of writing an APAR is also to ensure that the officer is given an





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and the DG's Displeasure during the relevant period. Therefore, there was substantial material to justify the Impugned Order dated 22.07.2021, passed by the competent authority, which only partially allowed his representation against his APAR. Equally, the challenge to the Advices and the Displeasure is found to be without any merit.

52. For the reasons stated hereinabove, we do not find any merit in the present petition. The same is, accordingly, dismissed.

**NAVIN CHAWLA, J.**

**SHALINDER KAUR, J.**

**APRIL 25, 2025/rv/SJ**