

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 22099 of 2024

Ram Prakash Mishra
Vs.
Union of India & Ors.

For the writ petitioner	:-	Mr. Ujjal Ray, Adv. Sk. Abdur Rahim, Adv.
For the Union of India	:-	Ms. Purabi Saha Das, Adv.
Heard on	:-	18.03.2026
Judgment on	:-	01.04.2026

Amrita Sinha, J.:-

1. The petitioner is a member of the Border Security Force (BSF). He is aggrieved by the adverse remarks recorded in his Annual Performance Assessment Report (APAR) for the period 1st April, 2022 to 31st February, 2023.
2. It has been submitted that the Reviewing Officer has illegally and arbitrarily downgraded his performance in an illegal and arbitrary manner contrary to the APAR Procedure and Instructions – 2012 (hereinafter referred to as the 'Instructions-2012') issued by the Directorate General, BSF.

3. It has been submitted that without recording proper statement that the petitioner failed to improve himself after advisories were issued by the Reporting Officer, the marks given by the Reporting Officer ought not to have been downgraded by the Reviewing Officer.
4. It has been contended that the petitioner's integrity has been found to be beyond doubt by the Reporting Officer, the Reviewing Officer and the Accepting Authority. The Reporting Officer has assessed the petitioner to be sincere and hardworking and graded him as 'very good' by awarding 6.23 marks. The Reviewing Officer disagreed with the view expressed by the Reporting Officer and opined that the petitioner has been asked for explanation on many occasions. He was advised twice by the Commandant. He requires to improve his casual attitude and is required to maintain cordial relation with seniors and subordinates. The Reviewing Officer awarded 5.46 marks to the petitioner. The Accepting Authority agreed with the remarks of the Reviewing Officer.
5. Challenging the downgrading of marks, the petitioner preferred appeal before the competent authority who agreed with the remarks of the Reviewing Officer and the Accepting Authority.
6. It has been submitted that three advisories were issued to the petitioner on 7th, 8th & 9th of January, 2023 and the petitioner complied with the said advisories. It has been argued that the advisories were issued back-to-back and the same was a mere

formality. The Reviewing Officer ought to have enquired from the Reporting Officer as to whether or not the petitioner acted in terms of the advisories issued.

7. It has been argued that as the advisories are issued for reformative reason, accordingly, more time ought to have been taken to assess the performance of the incumbent prior to opining that the incumbent failed to act in accordance with the advisories.
8. The aim of writing APAR as indicated in the Instructions-2012 is with an objective assessment of the incumbent's professional and personal qualities, his competence, potentiality and employability and to provide him appropriate feedback and guidance for correcting his deficiencies and to improve his performance to serve the interest of enhancing the efficiency of the Force. APAR is prepared by the Reporting Officer who has the opportunity to personally watch the work and conduct of the employee which is to be reviewed by the next superior authority that is the Reviewing Officer.
9. The responsibility of the initiating officer writing APAR as mentioned in Instructions-2012 has also been placed. There is mention that every warning/reprimand issued in writing need not automatically find place in APAR. Only cases in which, despite such warning the officer has not improved, appropriate mention of such warning may be made in APAR.

10. Instructions-2012 also mention that it is the responsibility of the initiating officer to counsel and guide the incumbent as well as to apprise him of his shortcoming, when noticed, throughout the reporting period. This obligation should not be deferred to the time of initiation of APAR, so that adverse remarks, if any, do not come as a surprise to the officer reported upon.
11. The Instructions specifically mention that the Reporting Officer, while writing APAR, may decide not to make a reference in the APAR to the advisories, if, in the opinion of that authority, the performance of the Government servant reported upon has improved and has been found satisfactory after the issuance of the advisory. However, if in the considered opinion of the Reporting Officer, the Government servant has not improved, appropriate mention of such warning may be mentioned in APAR.
12. It is the specific case of the petitioner that as the Reporting Officer had the opportunity to assess the petitioner first hand and the said officer did not mention about the advisories in APAR and graded the petitioner as 'very good', the superior officers ought not to have interfered with such grading as the said officers did not have sufficient personal knowledge of him.
13. The fact that there is no mention of the advisories in the report of the Reporting Officer implies that, the petitioner had reformed himself for

which the Reporting Officer did not feel the necessity of incorporating the advisories in the APAR of the petitioner.

14. Prayer has been made by the petitioner to delete the adverse remarks recorded in his APAR by the Reviewing Officer and the Accepting Officer and to upgrade the same in line with the grading of the Reporting Officer.
15. In support of such prayer, learned advocate for the petitioner relies on the judgment passed by the Hon'ble Supreme Court in the matter of **State of UP vs. Yamuna Shanker Misra & Anr.** reported in **(1997) 4 SCC 7** wherein the Court held that 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, as accurately as possible, for an overall assessment of the performance of the subordinate officer. If, despite opportunity given, the officer fails to perform, correct or improve himself, then the same may be recorded in the confidential report.
16. The submission and prayer of the petitioner is opposed by the respondents. The affidavit filed by the Deputy Inspector General at Sector Head Quarter, BSF Raigang is relied upon.
17. It has been submitted that during the subject period it was found that the petitioner failed to improve his adjustability, inter personal relations, sense of responsibility, maintenance of discipline, initiative and drive, capacity to work in team spirit, capacity to work within time

limit, appearance and wearing, interest in maintaining personal and community hygiene, coordination, cooperation, resourcefulness, physical endurance, application to work, understanding of chain of command.

18. Three explanations were called from him and the explanations provided by him were found to be unsatisfactory. As the petitioner was unable to improve himself despite issuance of the advisories, he had to be downgraded.
19. It has been submitted that initially the petitioner was verbally counselled by the authority to improve his conduct but the same went in vain. It is only thereafter that the petitioner was asked to explain his lackadaisical conduct.
20. It has been argued that APAR is meant for a specified period and prior or subsequent change of performance cannot be a ground to either expunge or upgrade the remarks or grading of a Government servant. When the performance of the petitioner was worth appreciating, he had been assessed accordingly. In a similar manner, when his performance is not up to the mark, the same gets reflected in his APAR.
21. Prayer has been made to dismiss the writ petition.
22. I have heard and considered the submissions made on behalf of both the parties and perused the materials on record.

23. Whether the writ Court can exercise the power of judicial review and interfere with the remarks given in APAR is the issue. The Procedure and Instructions for marking APAR is an elaborate one. It mentions that appraisal reports reflect the true performance of the appraisee in an objective and unbiased manner. It is important that the Reporting / Reviewing Officers while assessing the performance of a public servant should necessarily be scrupulous and careful in following the prescribed procedure. The function of writing APAR is to be carried out with utmost sincerity and honesty. APAR is a tool for human resource development in order to enable a Government servant to realise his true potential. The same is of paramount importance for the efficiency and morale of the Force. The value of proper assessment is recognized by all concerned.
24. The instructions-2012 has an entire chapter titled as 'the guidelines for writing APAR'. There are several factors that are to be taken into consideration for preparation of APAR. The same requires subjective satisfaction as well as the objective purpose for recording proper assessment of a member of the Force. Incorrect assessment may not give the proper picture of the incumbent. The same may pose a problem in proper posting, confirmation, promotion etc. of the incumbent. The Force may not be in a position to extract the best service from the incumbent if proper appraisal is not made.
25. The particular responsibility of the Reporting Officer, the Reviewing Officer and the Accepting Authority are also detailed in the

Instructions. Assessment of an incumbent by a particular officer may relatively differ from the assessment made by another. Each officer has a different manner of assessing an incumbent. By and large the method for recording APAR is provided in the Instructions.

26. The Court does not have any personal knowledge of the performance of the petitioner or for that matter, any employee. It is only from the documents annexed to the writ petition that the Court has to decide as to whether it was proper for the Reviewing Officer and the Accepting Authority to differ from the view taken by the Reporting Officer. Till there is any proof of malice, bias, arbitrariness or perversity in the decision taken by the superior officers, the Court usually would not interfere with APAR of an incumbent.
27. It will be highly improper if the Court replaces its own view in place and instead of the view taken by the superior officers in the absence of any of the illegalities mentioned hereinabove. In the case at hand, it does not appear that the assessment made by the superior officers is so highly improbable or illegal that the same requires to be interfered with by the Court. The petitioner ought to take the assessment in true spirit and try to overcome the shortcomings that have been noted and pointed out by the superior officers to enhance the performance of the Force and provide the best service to the nation.
28. In *Yamuna Shanker Misra (supra)* the Hon'ble Supreme Court was pleased to uphold the object of writing confidential reports and

character roles in a fair, accurate and dispassionate manner. The Court was pleased not to interfere with the adverse remarks made against the officer.

29. In view of the discussions made hereinabove, the Court is not inclined to interfere with the assessment made by the Reviewing Officer and the Accepting Authority.
30. The writ petition fails and is hereby dismissed.
31. No costs.
32. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)