

(2020) 12 AFT CK 0002

In the Armed Forces Tribunal

Case No : Original Application No. 2111 Of 2018

Bhupinder Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 04-12-2020

Acts Referred:

Air Force Act, 1950 — Section 27, 86, 121

Right To Information Act, 2005 — Section 8(1)(e), 8(1)(j)

Citation : (2020) 12 AFT CK 0002

Hon'ble Judges : Rajendra Menon, J;P.M. Hariz, Member (A)

Bench : Division Bench

Advocate : Pushpendra Kumar Dhaka, V.S. Tomar

Final Decision : Dismissed

Judgement

1. This O.A under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant, a serving Group Captain (Gp Capt) of the Indian

Air Force. He is aggrieved by a Censure awarded to him in 2016 for financial impropriety; non-empanelment to the rank of Air Commodore in the

Promotion Board-1 of 2017 (PB-1/2017) held in February 2017 and the subsequent Board held in 2018 (PB-1/2018) and rejection of his statutory

complaint dated 17.05.2018 against his non-empanelment in 2017 and 2018

2. Whilst awaiting the disposal of the statutory complaint, the applicant filed O.A No. 1578 of 2018 against his non-empanelment in both the Promotion

Boards and his then pending statutory complaint. However, the said O.A was dismissed as withdrawn on 03.10.2018, when during admission the

respondents intimated that the complaint had been replied on 13.09.2018. The applicant also simultaneously filed O.A No. 1577 of 2018 along with

M.A No. 1753 of 2018 to quash the censure awarded to him. These too were

dismissed vide Orders dated 24.09.2018 and 24.10.2018. Thereafter, the applicant filed O.A No. 1919 of 2018 praying that the censure be set aside, quash the rejection of the statutory complaint and conduct a Special Promotion Board. However, this was also dismissed as withdrawn on 04.12.2018 with liberty to file a fresh case, as the applicant had omitted to mention the disposal of O.A No. 1577 of 2018 making the O.A untenable. Hence the instant O.A.

3. In this O.A, the applicant has assailed the impugned orders of the second respondent pertaining to the results of PB-1/2017 and PB-1/2018, rejection of his statutory complaint and has prayed for the following reliefs:

(a) Summon all the relevant records including files and file notings pertaining to proceedings of PB-1/2017 and PB-1/2018;

(b) Set aside the moderation of AR of the applicant, if found to have been done after award of censure;

(c) Quash the impugned letter dated 05.10.2018, vide which they had rejected the statutory complaint of the applicant dated 17.05.2018;

(d) Direct the respondents to conduct a special promotion board to empanel the applicant for the rank of Air Commodore with protected seniority from retrospective effect i.e. year 2017; and

(e) Award the cost of litigation Rs.50,000 (Rupees fifty thousand only) in favour of the applicant.

Facts of the Case

4. Brief facts of the case, explained by the applicant, is that he was commissioned in the Indian Air Force on 07.09.1987, in the Aeronautical

Engineering [AE(L)] Branch. He was promoted to his present rank of Group Captain in 2010. During his career, he has held important appointments

and specialized in guided weapon maintenance. He held the appointment of Senior Technical Officer in two Missile Squadrons, Senior Production

Engineer at 7 Base Repair Depot and Command Ground Electronics Systems Officer. He commanded a Wireless Experimental Unit and 7 TETRA

School and was posted as Director Guided Weapons Maintenance at Air HQ, prior to assuming his current appointment of Command Systems Officer

at HQ Eastern Air Command. Due to his professional excellence, he has been commended by the Air Officer Commanding in Chief (AOC-in-C) and

the Chief of the Air Staff (CAS).

5. Pursuant to an audit of LTC claims preferred during the period 2012-2014 by personnel of the Indian Airforce, PCDA(AF) raised objections on the

LTC claims of officers and men. This included an objection to a LTC claim preferred by the applicant in 2013 whilst he was posted as Commanding

Officer, 7 TETRA. The second respondent, vide their Note dated 11.05.2016, issued a Show Cause Notice (SCN) to the applicant to show cause as

to why appropriate action in terms of AFO 03/2008 should not be taken against him for preferring a false LTC claim for Rs 21,038/-. The applicant,

vide his letter dated 24.05.2016, replied to the SCN stating that the claim was made due to an inadvertent oversight, that he had intimated the

Accounts Section to make the necessary recovery and that he would be careful henceforth to avoid such an incident. In terms of Para 21 of the AFO

03/2008, the second respondent vide Note dated 12.06.2016 conveyed the issue of a censure by AOA in the form of his 'Displeasure' effective

23.07.2016, for the lapse for financial impropriety in preferring a LTC claim for Rs 21,038/- from public funds.

6. PB-1/2017 was held on 07.02.2017 and 08.02.2017 to select a panel of Group Captains of AE Branch to fill the forecast vacancies during the

promotion year 2017-18 in the rank of Air Cmde in the AE Branch. The applicant was considered for promotion by this Board as a first timer. The

PB-1/2017 results were promulgated vide second respondent signal dated 19.05.2017; the applicant was not empaneled for promotion. PB-1/2018 was

held on 22.02.2018 and the applicant was again considered for promotion as a second timer. The PB-1/2018 results were promulgated vide second

respondent signal dated 10.05.2018; the applicant was again not empaneled for promotion.

7. Aggrieved by his non-empanelment in both the Boards, the applicant submitted a statutory complaint dated 17.05.2018. The applicant's plea was

that based on his professional excellence, he believed that he had been consistently assessed high in his Annual Reports and that he yet was not

empaneled could only be due to the censure of 'Displeasure' awarded in Jul 2016. In this application, he also explained how the false LTC claim came

about and that he had been penalized repeatedly on the same grounds in both the Boards. He, therefore, sought that the matter be taken up with Air

HQ and MoD for redressal and that the results of PB-1/2018 be withheld till his grievance is redressed.

8. This complaint was rejected by the second respondent vide their Note dated 13.09.2018 served on the applicant vide HQ Eastern Air Command

letter dated 05.10.2018. The applicant was informed that the Board had considered all officers as per the provisions of Promotion Policy dated

30.12.2015, which takes into consideration AR and Board Marks with a weightage of 95:05. It also intimated that the Board had taken into account

the vigilance and disciplinary aspects of every officer under consideration as per the provisions of AFO 03/2008. His contention that he was not

promoted only due to the censure was misplaced and that his presumptions of his own high AR merit too was made in the absence of his knowledge

of the performance of other officers under consideration. The Note concluded that the applicant was thus not empaneled for promotion based on

comparative merit and that there has been no discrimination against the applicant.

9. In the meanwhile, the applicant was considered for the third and final time, for promotion to the rank of Air Cmde by PB1/2019 and was not

empaneled.

Arguments by Counsel for the Applicant

10. Mr. Pushpendra Kumar Dhaka, learned counsel for the applicant explained the applicant's excellent professional performance over the years, key

appointments held and recognition of his professional acumen by his superiors. He then argued that the applicant was aggrieved by the censure

awarded to him for financial propriety, which resulted in his not being empanelled for promotion to the rank of Air Commodore in two consecutive

promotion boards of 2017 and 2018.

11. The learned counsel explained the circumstances under which the LTC claim was made by the applicant, how there had been a clerical error by

his PA in making the claim document, how the applicant had paid the recovery amount with penal interest on 14.05.2016, that the veracity of his

innocence and the actual details of travel is borne out by the facts published in the Personnel Occurrence Report, and that at best, the applicant should

have been dealt with under the provisions of Para 177E(iii) Revised Travel Regulations 2014 and that the application of AFO 03/2008 is questionable.

12. The learned counsel went on to state that since the reply to the statutory complaint was delayed by five months, the applicant had to seek

necessary information about PB-1/2017 and PB-1/2018 through two RTI applications. However, the information of relative merit position was denied under Section 8(1)(e) and (j) of Right to Information Act, 2005. Further arguing that the statutory complaint was disposed of without application of mind, he added that the only reason given by the respondents for non-empanelment of the applicant was that he did not make it on comparative merit. Since the respondents have also intimated that the Board proceedings were returned by the first respondent, the applicant contends that though he was initially approved, was dropped in the review by reducing his Board marks. The learned counsel emphasised that there was no policy wherein the recommendations of the Promotion Board could be overruled by the first respondent without any justification. He then said that Gp Capt RNB Rao, who was not in the list, was promoted on the directions of the first respondent, wherein the name of the applicant was dropped on extraneous considerations. He further argued that while the applicant had given specific names of similarly situated officers who have been judged with different yardstick, it was the responsibility of the respondents to explain how such officers were dealt with in order to establish transparency of the process; which they have not done.

13. Relying on the judgment of the Delhi High Court in Air Vice Marshal Harish Masand v. Union of India and others (W.P (C) Appeal No 1035 of 2004, the learned counsel then argued that the Hon'ble High Court had recorded that despite censure, officers have been promoted to higher ranks and that the judgement has recorded names of those so promoted. Further, relying on the judgment of the Himachal Pradesh High Court in Brig ..1.5 Sivia v. Union of India and others (CMWP No 587 of 1992), the Counsel then argued on the validity of a censure as a form of punishment, and drew our attention to the judgement which stated that a major censure issued by virtue of a policy which then becomes a part of the officers' service record and impacts his promotion cannot be justified by any canon of construction. The High Court had accordingly quashed the censure awarded to the officer and directed the respondents to consider the petitioner therein for grant of substantive rank of Brigadier.

14. The learned counsel stated that as per Section 86 of the Air Force Act, 1950, an officer above the rank of Squadron Leader cannot be punished

summarily and that Air Force Order 03/2008 states that 'Displeasure' is a custom of service and not a punishment. The learned counsel contended that a censure therefore cannot be used as a punishment which debars the applicant from being promoted, that the award of censure should be considered as a mere warning and cannot be detrimental to future employment. Moreover, since it has been awarded by the AOA and not the CAS, incident has been viewed as a small mistake. In addition, the Counsel emphasised the fact that the aspect of propriety has been linked to the applicant's integrity to deny him promotion. Because the Promotion Board has the overall discretion for award of Board marks, they should have considered the applicant's case suitably if he was otherwise suitable for promotion. Relying on the DoPT O.M dated 21.11.2016, the learned counsel added that similar provisions existed in the civil where if a DPC concluded that an officer was fit for promotion, the individual officer making the claim to ensure its correctness, he was issued a show cause notice for the financial impropriety and having considered his reply, he was awarded a censure. Such cases of financial irregularity/ impropriety would normally be dealt as disciplinary cases. However, in this case, since more than three years had elapsed from the time of the offence, it was time barred under Section 121 of the Air Force Act, 1950 which deals with period of limitation for trial for initiation of disciplinary action. Thus this incident of financial impropriety by the applicant, wherein he made a false LTC claim for Rs 21,038/- from public funds, was disposed of through an administrative action by award of a censure. He further added that the award of censure, in no way, implies that the misconduct was of a trivial nature, or that it is a form of minor punishment. The learned counsel then emphasised that all averments of the applicant, challenging the censure were banned by res judicata since O.A No. 1576 of 2018 challenging the censure was dismissed as withdrawn vide orders dated 24.09.2018 and 24.10.2018.

17. Thereafter, learned counsel for the respondents took us through the process of how the Promotion Board is conducted, the policy of which is enshrined in Air HQ letter of 30.12.2015. Elaborating on the provisions contained in Paragraphs 16 and 17 of this letter, the learned counsel contended that the merit list is prepared on the basis misplaced. The learned counsel emphasised that no such complaint was received nor was his non-

empanelment due to any extraneous considerations. The applicant was not empanelled on both Boards, purely on the basis of his overall comparative merit.

20. The learned counsel then argued that there had been no undue delay in disposing the applicant's statutory complaint dated 17.05.2018 as averred

by the applicant. He elaborated that the statutory complaint was received on 05.06.2018 and that before it could be disposed of, the applicant had filed

RTI applications dated 07.06.2018, which were first disposed of. The statutory complaint was rejected by CAS under Section 27 of the Air Force Act

and Para 622(j) of the Regulations of the Air Force and disposed of on 13.09.2018. This was intimated to the applicant on 05.10.2018 by HQ Eastern

Air Command, where the applicant was then serving.

Consideration

21. Having heard the learned counsels on both sides and carefully considered the rival contentions, the primary issue before us is:

Whether the applicant was unfairly and illegally denied promotion by the respondents by taking action in a manner that was in contravention to existing

policies on the conduct of Promotion Boards and approval of results by the approving authority?

22. The award of censure in the hierarchy of administrative and disciplinary actions, the financial impropriety case for which the applicant was

awarded a censure of 'Displeasure' by AOA are not being examined here as this Tribunal had already dismissed O.A No. 1577 of 2018 and M.A No.

1753 of 2018 vide orders dated 24.09.2018 and 24.10.2018. These orders are reproduced below:

Order dated 24.09.2018 in OA 1577/2018:

1, Having heard the learned Counsel for the Applicant, we are now inclined to entertain the app//cat/on.

2. The learned Counsel for the Applicant has chosen to withdraw the Original Application, which was not opposed. Accordingly, the OA is

dismissed as withdrawn.

Order dated 24.10.2018 in MA 1753/2018 in OA 1577/2018 and MA 1754/2018 in OA 1576/2018:

We have heard the learned counsels for the applicant as well as for the respondents. However, we find that the submissions made by

learned counsel for the applicant to recall the order dated 24.09.2018 does not find any merit because the learned counsel after making

strenuous effort had sought permission to withdraw the application which was granted. Therefore, nothing remains to be done.

2. However, as pointed out, that in para I of order dated 24.09.2018, on account of typographical error, word 'now' has been written, which should read as 'not'.

3. Necessary correction in this para be made and order shall read as under:

Having heard the learned counsel for the applicant, we are not inclined to entertain the application.

2. The learned counsel for the applicant has chosen to withdraw the Original Application, which was not opposed.

Accordingly, the OA is dismissed as withdrawn.

4. In view of the submissions made above, MA5 stand disposed of

The fact of the matter is that in 2013, the applicant had made a fraudulent LTC claim for Rs. 21,038/-, for which he was awarded a censure of a

'Displeasure'. While normally this case would have invited disciplinary action, the second respondent dealt the case with an administrative action since

it was time-barred for disciplinary action under Section 121 of the Air Force Act. Air Force Order 03/2008 dated 18.01.2008 lays down the policy on

award and effect of censure, based on which due cognizance was taken of the censure by the Promotion Board, especially considering that it was an

act of financial impropriety. Para 26(b)(i) and (ii) of AFO 03/2008, which is applicable to the case, is reproduced below:

(b) For Promotion to Air Ranks. N For promotion to Air Ranks; the Special Promotion and No] Promotion Board shall specifically consider

Censure(s) awarded to the officer after the last promotion while deciding the suitability of the officer for the next higher acting rank. To determine the

suitability for promotion, the gravity of the lapse/ misconduct for which the officer was censured, the authority which Censured him and in the case of

Severe Displeasure' the period of 'Severe Displeasure' shall also be taken into account.

(ii) While considering the suitability of officers for promotion to A 'ir Ranks; the complete service record including all the Censures awarded will be

taken into consideration by the Promotion Board and other competent authority.

The Promotion Boards were conducted in accordance with 'Promotion Policy â?" Air Ranks' issued vide second respondent's letter No. Air

HQ/22030/10/P0-2(D) dated 30.12.2015. The merit list is prepared on the basis of AR marks and Board marks with a weightage of 95:05. For

promotion to the rank of Air Cmde, the average of numerical grading of available ARs during the last 10 years is taken into consideration. Board

marks is the sum total of marks given by each member present in the Board meeting on a scale of 05 and is based on the factors of employability,

leadership, personality and potential to hold the responsibility of the next higher rank as discerned from the reports raised on the officer in various field

and staff appointments held by him.

23. We have perused the records on file pertaining to PB-1/2017 and PB-1/2018 pertaining to AE Branch submitted in Court by the second

respondent after the final hearing on 21.10.2020. The facts, as given in subsequent paragraphs, have been established.

24. The PB-1/2017 was convened on 07.02.2017 and 08.02.2017 to select a panel of Gp Capts of AE Branch to fill the forecast vacancies during the

promotion year 2017-2018 in the rank of Air Cmde in the AE Branch. The CAS was the Presiding Officer of the Board with ten other Air Marshals

as members. A total of 38 Gp Capts of AE Branch were considered for selection against 19 vacancies. The officers under consideration included five

officers being considered for the third and final time; one officer being considered for the second time and 32 officers including the applicant, being

considered for the first time. Of the 38 officers considered, nine officers including the applicant had various administrative/ disciplinary/ adverse

reports. Of these nine, two including the applicant had a 'Displeasure' for financial impropriety. On perusal of the Board Proceedings, contrary to the

applicant's averment and belief, it is seen that even in the AR merit, the applicant is way down below the cut off mark and his final position in the

merit list is 31. With regard to the Board marks, even if the applicant was awarded the Board marks given to the 19th officer on the select list, he still

remains below the datum of those empanelled. The Board proceedings, including details of administrative/ disciplinary action/ adverse report

considered by the Board in respect of nine officers including the applicant, were forwarded by the second respondent to the first respondent for

approval, vide their Note dated 17.02.2017. In conformity with existing orders by the first respondent regarding providing necessary explanation where

the merit position is altered as a result of Board marks, the Board proceedings explained the reason in respect of officers where the merit position was

altered. The applicant's case required no explanation by the Board as there was no major change in his merit position and nor was he in the select list.

Based on certain observations, the competent authority of the first respondent, vide Note dated 20.04.2017, intimated that the Board be held afresh.

The Board was reconvened on 21.04.2017 and the Board proceedings were forwarded for approval on 24.04.2017. The applicant remained at SI. No.

31 in the merit list. The second officer who had a censure for financial impropriety was recommended for promotion based on his overall merit.

However, the competent authority approved the Board proceedings except for this officer with a censure for financial impropriety. This was intimated

by the first respondent vide their Note dated 18.05.2017 and the results of 18 officers approved by the Board was promulgated by the second

respondent vide their Signal dated 19.05.2017. After a detailed review of the case of the officer with censure for financial impropriety, who was

recommended for promotion, but not approved, the first respondent accorded approval to promote the next officer in the overall order of merit vide

their Note dated 10.01.2018. Accordingly, the officer at SI. No. 20 (Gp Capt RNB Rao) of the final merit list was promoted, the orders of which were

promulgated by the first respondent vide their Signal dated 31.01.2018.

25. The PB-1/2018 was convened on 22.02.2018 to select a panel of Gp Capts of AE Branch to fill the forecast vacancies during the promotion year

2018-2019 in the rank of Air Cmde in the AE Branch. The CAS was the Presiding Officer of the Board with ten other Air Marshals as members. A

total of 42 Gp Capts of AE Branch were considered for selection against 21 vacancies. The officers under consideration included one officer being

considered for the third and final time, 13 officers being considered for the second time including the applicant, and 28 officers being considered for

the first time. Of the 42 officers considered, eight officers including the applicant had various administrative/ disciplinary/ adverse reports. Of these

eight, three including the applicant, had a 'Displeasure' for financial impropriety. On perusal of the Board proceedings, it is seen that even in AR merit,

the applicant is well below the datum line and the final position of the applicant in the merit list is 40. The Board proceedings, including details of administrative/ disciplinary action/ adverse report considered by the Board in respect of eight officers, including the applicant, were forwarded by the second respondent to the first respondent for approval, vide their Note dated 13.03.2018. After seeking certain clarifications, the Board proceedings were approved by the first respondent vide their Note dated 10.05.2018. Of the eight officers with administrative/ disciplinary/ adverse reports against them, only one officer was empanelled.

26. Relying on the DoPT OM dated 28.04.2014 and 21.11.2016, the learned counsel has argued that the Promotion Boards have the overall discretion

in awarding the Board marks and that it could even overlook the award of censure as is applicable in the civil Government. The O.M dated 21.11.2016

'Guidelines on treatment of effect of penalties on promotion â?" Role of Departmental Promotion Committee' is a reiteration of Para 7(d)(f) and (g) of

DoPT O.M dated 28.04.2014 and its application with reference to censures. The relevant paragraphs are reproduced below:

7(g). In assessing the suitability of the officer on whom a penalty has been imposed, the DPC will take into account the circumstances

leading to the imposition of the penalty and decide whether //7 the light of general service record of the officer and the fact of imposition of

penally, the officer should be considered for promotion. The DPC, after due consideration, has authority to assess the officer as 'unfit' for

promotion. However, where the DPC considers that despite the penalty the officer is suitable for promotion, the officer will be actually

promoted only after the currency of the penalty is over (paragraph .13 of DoPT OM dated 10.04.1989)

2. Questions have been raised by the Ministries and Departments asking whether this is applicable in the case of 'Censure/ also. In this

regard, it is reiterated that paragraphs 7(d), 7(1) and 7(g) cited above are applicable in all the recognized penalties under CCS (CCA)

Rules Including the minor penalty of Censure as well for which no currency has been prescribed, it would mean that as per para 7(g), if the

DPC considers the officer fit for promotion notwithstanding the award of censure, he / she can be promoted without referring to the

currency of penalty.

Paragraph 7(g) is explicit in stating that, in assessing the suitability of the officer on whom a penalty has been imposed, the DPC will take into account

the circumstances leading to the imposition of the penalty and then based on the general service record of the officer and the imposition of penalty

decide whether the officer is fit/unfit for promotion. Thus, even the DPC is mandated to take all issues into consideration and is at liberty to decide

whether an officer is fit/unfit for promotion. The OM then clarifies that Paragraphs 7(d)(f) and (g) of DoPT O.M dated 28.04.2014 are applicable for

all recognised penalties under CCS(CCA) Rules, including censure. Though the promotions in the Air Force are conducted as per the provisions of

Promotion Policy dated 30.12.2015 and AFO 03/2008, the spirit of the policy on how censures are to be considered by the Air Force Promotion Board

is no different as elaborated in AFO 03/2008. In that, for promotion to 'Air Ranks', the Board specially considers censure(s) awarded to an officer

after the last promotion, in the instant case, in the rank of Group Captain, and it is also mandated to peruse the complete service Critical analysis or

appraisal of the file by the Court may neither be conducive to the interests of the officers concerned or for the moral of the entire force. May be 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 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 has nexus to the facts on record, the same cannot be attacked on merits. Judicial review is permissible only to the

extent of finding whether 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 jurisdiction for the High Court to have interfered with the order made by the Government.

28. Learned counsel for the applicant has also relied on the decision in *Union of India and others v. Brig, 15, 5/via (MU 1996 SC 3)*, wherein the High

Court of Himachal Pradesh had struck down the validity of a censure as a form of punishment and had then quashed the censure awarded to the

officer and directed the respondents to consider the petitioner therein for grant of substantive rank of Brigadier. However, we find that this judgement

has been subsequently overruled by the Hon'ble Supreme Court in Brig 15 Sivia (supra), wherein, while reversing the judgment of the Himachal

Pradesh High Court, it has held that the award of censure is legal. The relevant portion of the said judgment reads as under:

10. We are, therefore, of the view that the High Court fell into patent error in reaching the conclusion that the Army Authorities have no

jurisdiction to award censure either in the form of displeasure or severe displeasure. We, therefore set aside the impugned judgement of the

High Court. (emphasis added)

29. Learned counsel for the applicant has also relied on the decision in Air Vice Marshal Harish Masanc/ (supra), wherein the High Court of Delhi

had rejected the plea of the first respondent regarding the methodology of Board marks and also stated that officers had been promoted to higher

ranks despite being awarded a censure. This case is distinctly different from the case at hand, in that the plea was against the then newly announced

promotion policy dated 15.03.2002 and its application, because of which the applicant was not empanelled. Inter aka, the case examined the new

promotion policy and in particular the weightage of AR : Board Marks which was at 80:20. The High Court found that the promotion policy of 2002 is

violative of Article 14 of the Constitution and, therefore, quashed the policy, the recommendations of the Selection Board held in February 2003 and all

the appointments made pursuant thereto.

30. In the light of the examination of the conduct of the Promotion Board by the second respondent and its approval by the first respondent, the first

respondent has rightly rejected the Statutory Complaint on the premise that the applicant was not empanelled based on his overall comparative merit

and not due to any other extraneous considerations. The details also substantiate the fact that there has been no discrimination by the Promotion Board

in any manner and that no officer considered with the applicant had been unreasonably placed in the select list.

31. In the result, we find that both the award of censure and conduct of Promotion Boards are governed by appropriate policies promulgated to the

environment; the Promotion Boards were conducted as per these policies; due

cognisance was taken of the censure awarded to various officers under consideration in awarding Board marks; the first respondent has a clearly stated position in not considering officers with cases of financial impropriety against them for promotion; the first respondent instructed the second respondent to review the Board proceedings of PB-1/2017 when the first respondent had made recommendations in contravention to this rule position; the applicant was not empanelled in both the Promotion Boards based on his overall comparative merit, wherein even his AR merit was well below the cut-off mark in both the Boards; and the second respondent had rejected the applicant's statutory complaint as it was bereft of merit of the grounds pleaded by the applicant.

32. Viewed thus, we do not find any merit in the O.A and it is dismissed. No order as to costs.

The original records submitted by the first respondent be returned in sealed cover.

Pronounced in open Court on this the 4th day of December, 2020.