

(2020) 02 AFT CK 0009
In the Armed Forces Tribunal
Case No : Original Application No. 302 Of 2019

Luthra	Vs	APPELLANT
Union Of India And Others		RESPONDENT

Date of Decision : 12-02-2020

Acts Referred:

Armed Forces Tribunal Act, 2007 — Section 31(1)

Citation : (2020) 02 AFT CK 0009

Hon'ble Judges : Rajendra Menon, J; Philip Campose, Member (A)

Bench : Division Bench

Advocate : Anshuman Mehrotra, Ankur Chhibber, V.S. Mahandiyan

Judgement

1. Vide our detailed judgment of even date, we have allowed the main OA. Faced with this situation, learned counsel for respondents No.1 and 2

makes an oral prayer for grant of leave to appeal to the Hon'ble Supreme Court in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007.

After hearing learned counsel for the applicant and going through our judgment, in our considered view, there appears to be no point of law much less

any point of law of general public importance involved in the judgment rendered by the Tribunal, therefore prayer for grant of leave to appeal is

declined.

The following original records kept by us for our perusal are returned:

Aggrieved by his non-empanelment for promotion to the rank of Captain by the Promotion Board held in August 2014 and subsequent rejection of his

statutory complaint thereto in July 2015, the applicant, an officer of the Indian Navy in the rank of Commander, who was again rejected for promotion

by a Special Promotion Board constituted in May 2018 based on an order of this

Tribunal dated 08.02.2018, who has taken premature retirement from service on 17.04.2017, has filed this O.A seeking the following reliefs:

(i) Quash the impugned order dated 10.05.2018, whereby the applicant was informed of his non-empanelment for promotion to the rank of Captain by the Special Promotion Board constituted in 2018 consequent to the order of this Tribunal dated 08.02.2018 in R.A No. 86 of 2017 in O.A No. 1112 of 2015 and also to quash the proceedings of the said Special Promotion Board.

(ii) Reconsider the applicant for promotion by granting him three fresh looks by Special Promotion Board and, in case found eligible, to promote the applicant to the rank of Captain from the date his batch mates were promoted.

2. Heard the learned counsel appearing for both the parties and perused the pleadings and documents on record, including the files relating to

Promotion Board proceedings and Statutory Complaint consideration in respect of the applicant.

3. The facts germane to the case, as averred by the applicant, are that he was commissioned in the Indian Navy (Engineering Branch) as a Technical

Entry on 01.04.1996 and was promoted to the rank of Commander in 2009, after which he had undergone the Defence Services Staff College (DSSC)

Course in 2010. In 2012, the applicant was one of eight officers who were selected as Nuclear Reactor Operators of submarines and had undergone

training abroad accordingly. In 2014, the applicant was considered along with his batch for promotion to the rank of Captain, but was not empanelled.

He was not empanelled in the subsequent review board also held in 2015. The applicant filed a statutory complaint challenging his ACRs for the period

2010-12 with regard to the report by his SRO, who happened to be the father-in-law of Capt. A.V. Agashe, who was the lone officer who was

approved among submarine engineers in the impugned Promotion Board. The applicant alleged that the said SRO "had deliberately" reduced his

numerical assessment while increasing his son-in-law's assessment so as to ensure that his son-in-law takes a march over the "others". The statutory

complaint filed by the applicant in this regard was rejected vide order dated 13.07.2015. The applicant contends that the Redressal and Complaints

Advisory Board (RACAB) had totally different recommendations from what was conveyed to him in the order in response to his complaint. The

applicant filed a second statutory complaint raising the same grievance and a few

other points, however, the respondents rejected the second complaint also. Consequently, the applicant filed an O.A (O.A No. 1112 of 2015) before this Tribunal (Principal Bench), which was allowed, holding that the applicant's SRO was guilty of the alleged wrong doing and, accordingly, was directed to pay a fine of Rs.5,00,000/-. The respondents (Union of India) filed R.A No. 86 of 2017, while R.A No. 84 of 2017 was filed by the SRO. This Tribunal dismissed the review petitions, but reduced the fine amount imposed on the SRO to Rs.1,00,000/-. This Tribunal, in the order dated 31.07.2017, had expunged the ratings of the SRO in the impugned CRs in respect of the applicant and asked that his quantified merit be recalculated accordingly and he be reconsidered by the Promotion Board as a fresh case. Nonetheless, despite claiming to have implemented the orders of the Tribunal, the applicant was not empanelled for promotion pursuant to fresh consideration by the Promotion Board. The applicant filed a miscellaneous application (M.A No. 594 of 2018) alleging that the respondents were not complying with this Tribunal's order dated 31.07.2017 read with the order dated 08.02.2018 whereto the respondents, as per the applicant, wrongly informed the Tribunal that the applicant had been considered by the Board as per the order dated 08.02.2018, but had again not been empanelled due to low merit. As a consequence, the Tribunal closed the M.A vide its order dated 10.05.2018. The applicant contends that the respondents faulted in not ensuring that Respondent No. 3, Rear Admiral M.A. Hampiholi, the officer who, as Assistant Chief of Personnel (ACOP) Human Resources (HR), as part of RACAB, had approved rejection of his statutory complaint contrary to recommendations thereto, also sat as a member on his Promotion Board and this shows the 'mala fide and illegal intent of the respondents'. The applicant also contends that he was required to be considered for promotion as a review case three times in keeping with extant policy but the respondents have given him fresh consideration as a Special Review Fresh Case only once. Hence this O.A.

4. Mr. Ankur Chhibber, learned counsel appearing on behalf of the applicant, has averred that Respondent No. 3 had an important role in the applicant's Promotion Board in terms of awarding value judgment marks and thus his participation as a member of the Promotion Board, despite having been instrumental in unfairly rejecting his complaint before RACAB, goes

against the principles of natural justice. After all, Respondent No. 3

had given a negative decision on his complaint contrary to the recommendation by RACAB which has supported the stand taken by the applicant.

5. Reliance is placed on the decision in *State of Punjab and others v. V.K. Khanna and others* (2001) 2 SCC 330, wherein at Para 8, the Hon'ble

Supreme Court has observed as under:

8. The test, therefore, is as to whether there is a mere apprehension of bias or there is a real danger of bias and it is on this score that the

surrounding circumstances must and ought to be collated and necessary conclusion drawn therefrom. In the event, however, if the

conclusion is otherwise that there is existing a real danger of bias administrative action cannot be sustained. If on the other hand

allegations pertain to rather fanciful apprehension in administrative action, question of declaring them to be unsustainable on the basis

therefore, would not arise.

6. Further, reliance is also placed on the order dated 08.10.2015 of the Delhi High Court in the matter of *S.K. Sharma v. Union of India and others*,

whereby the ACRs of the petitioner by the fifth respondent were quashed on the basis of bias. Paragraphs 12 and 14 of the order have been cited as

relevant, which read:

12. In *Mahadevan v. D. C. Agarwal* 1993 Suppl. (4) SCC 4 the respondent was seeking promotion. He had filed a contempt case against

certain senior officers of the State Bank of India for denying him promotion. But the Bank constituted a Selection Committee in which the

two persons against whom the contempt case was filed were members and the Committee did not find the respondent fit for promotion. It was

held that the said two persons ought not to have been members of the Selection Committee and the Committee's decision was invalid. This

Court observed after considering the records that the Committee which interviewed comprised two of the persons against whom the

respondent had filed contempt petition in the High Court. This, was according to the court, neither proper nor fair. Those officers

occupying very high position in the Bank in all propriety should have withdrawn from the Committee constituted for this purpose. We may

not be understood as imputing any bias to them. But, in our opinion, the

principle of fairness required that they should not have sat on the Board.

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14. As in all cases where bias is alleged, the issue which the court has to address itself is as to whether there was likelihood of bias. The

party alleging bias is not under an onus to prove bias; rather it is a danger or likelihood of bias of the public official concerned, in the

circumstances of a given case. In one of the most celebrated cases, *Rv Bow Street Metropolitan Stipendiary Magistrate & Ors, Ex parte*

Pinochet Ugarte (No 2) [1999] 2 WLR 272 the Pinochet case⁷ discussed those tests. There, the House of Lords set aside its earlier decision

when it was disclosed (after delivery of judgment), in the earlier appeal, that Lord Hoffmann, (one of the members of the Appellate

Committee who heard the appeal), had some link with Amnesty International. That body was an intervener in the appeal; the judge was an

unpaid director of the Amnesty International Charity Ltd ("AICL", a charity wholly controlled by Amnesty International. The House of Lords

held that the relationship between Lord Hoffmann and Amnesty International through his directorship in AICL, led to his automatic

disqualification from sitting on the hearing of the said appeal without the need to investigate whether there was a likelihood or suspicion of

bias in the circumstances of that case. The Supreme Court in *Badrinath (supra)* and *D.C. Agarwal* and the other cases previously cited

vividly summarized the applicable test in these cases-it is not one of proven bias, rather it is proof of reasonable likelihood of bias.

7. Learned counsel for the applicant has argued that he apprehends that low Value Judgment (Vi) marks have been awarded to the applicant in the

Special Review Board conducted in May 2018. In this regard he asserts that the Tribunal is empowered to increase the Value Judgment if it perceives

that injustice has been done to the applicant on this count.

8. The following decisions have also been cited by the learned counsel for the applicant in support of his case:

(i) *V Mahadevan and others v. D. C. Agarwal* (1993 Supp (4) SCC 4); and

(ii) *Union of India and others v. Maj. Gen Manomoy Ganguly* (2018) 1 SCC 552.

9. Learned counsel for the applicant has also cited Navy policy vide Navy Order (Special) No.01/2012 on 'Selection and Promotion of Officers to the rank of Captain and above' to claim that the applicant was required to be given three fresh/ review looks after the rating of the SRO had been

expunged in his ACRs of 2010-12. Para 14 of the said NO (Special) is reproduced as under:

14. The officers not placed in Select List for promotion to higher rank will be considered for promotion up to three times in each rank.

Accordingly, the applicant has sought two more looks on the contention that he was given only one fresh look after the impugned ratings of SRO in his CRs were set aside.

10. Dr. V.S. Mahndiyan, learned counsel for the respondents, on the other hand, has controverted the arguments made on behalf of the applicant.

Learned counsel has averred that the policy and procedure in the Navy regarding promotion from the rank of Commander to the rank of Captain has

been promulgated under the authority of Respondent No. 2 (CNS) through Navy Order (Special) 01/2012 and the policy on appraisal/ reporting on

naval officers are contained in Navy Order (Special) 05/2005, which have been strictly adhered to.

11. Counsel has submitted that the appraisal system in the Navy is designed to provide regular inputs on professional abilities and performance,

personal qualities and attitudes to ensure that the assessment of the officer is carried out in as scientific and objective a manner as possible. It is

submitted that the final numerical values as approved by the Respondent No. 2 (CNS) are taken into account by the Promotion Board for allocating

95% of marks to each officer. A comparative merit list is thereafter prepared after allocating 5% marks awarded as Value- Judgment by the Board

Members.

12. With regard to the applicant's contention that Rear Adm. M.A. Hampiholi, ACOP (HR), Respondent No 3, who approved the adverse decision of

the RACAB, was made a member of his Promotion Board, which act was alleged as deliberately unfair to the applicant, the respondents have

submitted that the policy for constitution of the Board for Promotion is already laid down and any deviation from the same would render the

proceedings of the Board as void. Further, Respondent No 3 was not the one who

approved the decision rejecting the applicant's complaint but was only an intermediary authority. Furthermore, Respondent No. 3 who was ACOP (HRD) at the time of processing of representation of the applicant was nominated as one of the Board members of the Special Promotion Board in his ex-officio capacity as Flag Officer Commanding, Western Fleet. Learned counsel has contended that just serving in the post of ACOP (HRD) earlier does not bar an officer to become the member of the Selection Board for promotion subsequently. In his official capacity as ACOP (HRD), Respondent No. 3 has examined nearly 200 cases of representation for non-promotion to the rank of Captain during his earlier tenure as ACOP (HRD). This fact cannot come in the way of his becoming a member of Selection Board for promotion to the rank of Captain merely because some of the officers out of those 200 cases are being considered for promotion by the Promotion Board. The logic of bias of Respondent No. 3 against the applicant is therefore baseless. Moreover, the award of Value Judgment by Respondent No. 3 to the applicant in the "Special Promotion Board" has been done without any bias or prejudice, which fact can be verified by the Tribunal after perusing the Promotion Board Proceedings.

13. With regard to the applicant's contention that he should have been given three looks after the impugned ratings by his SRO were set aside consequent to the order of this Tribunal in O.A. No 1112/2015, learned counsel has referred to the said order dated 31.07.2016 to claim that the applicant was required to be granted one look in relation to his original batch, i.e. the Promotion Board of 2/2014, as a fresh case, with his original seniority. On compliance with the aforesaid order of AFT (PB), a Special Promotion Board (2/2018) on 02.05.2018, considered the officer with his original batch with quantified merit post RePARBing of Commander reports, as approved by the CNS, after disregarding SRO's assessment. The Board found that the applicant did not merit promotion to the rank of Captain as his revised weighted average and revised weighted order of merit were below the selection threshold of Promotion Board 2013/2014. Hence, the applicant was not empanelled for promotion. Hence, the O.A. deserves to be dismissed.

Consideration by the Tribunal:

14. We have given careful consideration to the arguments on both sides and find

that the primary issue before us is whether the decision of this

Tribunal in O.A. No 1112/2015 has been implemented correctly such that the applicant was not empanelled for promotion to the rank of Captain in the

Special Promotion Board 2/2018 in respect of the applicant, which was conducted on 02.05.2018.

15. The respondents have referred to the relevant para of NO (Spl) 01/2012 where the composition of the Promotion Board is laid down as under:-

(a) Chairman - Vice Admiral (X) (to be nominated by CNS from amongst Flag Officers Commanding-in-Chief and the Vice Chief of the Naval

Staff

(b) Members - Chief of Material

- Flag Officer Commanding Western Fleet.

- Vice/Rear Admiral (X) (to be nominated By the CNS).

- Assistant Chief of Personnel (1-/RD).

(c) Member Secretary - Principal Director of Personnel.

Note To ensure representation of both E and L Branches on the Board, the Vice/Rear Admiral (E/L) shall be from the Branch other than the

one to which the COM belongs.

If any member of the Promotion Board 2 as laid down in this Navy Order cannot be appointed due to non-availability or due to other

exigencies of service, the composition of the Board may be altered after obtaining prior approval of the CNS.

The respondents have thus contended that nomination of Respondent No. 3 as a member of the Special Promotion Board was by virtue of his being

the Flag Officer Commanding Western Fleet. Thus he was the member of the Special Promotion Board in his ex officio capacity and not by any

discretion. Moreover, the applicant could not provide any cogent ground for alleged unfairness in his ex-officio nomination as a member of the Special

Promotion Board.

16. The respondents have also referred to the contents of the order of AFT (PB) in OA 1112/2015 to justify that the applicant was given only one look

for Special Review Promotion Board.

17. Before we examine this case further, we have perused the documents related to the applicant that have been handed over to us on behalf of

Respondent No. 2 (CNS). Results of our detailed perusal are as follows:

(a) A total of 114 officers of Commander rank of the Engineering Branch of the Navy were considered for promotion in Promotion Board 2B/14 held

in August 2014 against the 13 vacancies for promotion to the rank of Captain. As per CR average, the applicant was ranked at Order of Merit '18'.

After addition of Value Judgment marks during the Promotion Board, he remained at Order of Merit '18'. Only one officer, Commander AV Agashe,

was empanelled for promotion from the Submarine (Engineering) Branch. Respondents have contended that notwithstanding the order of this Tribunal,

when it had been found by internal assessment that the rating by SRO in the CR of 01.11.2011 to 28.02.2012 in respect of Captain A.V. Agashe had

been increased by the SRO, the rating had thereafter been moderated downwards by NSRO.

(b) Based on his representation to the CNS, the applicant's ratings were RePARBed thereafter, on orders of the CNS. However, though his weighted

CR average for the Promotion Board improved by 0.312 marks, he remained below the selection threshold of his batch.

(c) The applicant was put through first review promotion board 2/15 with his RePARBed ratings but against a selection threshold Order of Merit of

14, his order of merit was 18 and he was not empanelled.

(d) The applicant's representation dated 20.10.2014 was found to be without merit and was rejected by the CNS after de novo examination by

RACAB. At that time the DOP had observed:

(i) The basic premise of the representationist officer fails to take into account the fact that a composite merit list of Engineer Officers is prepared

comprising of officers of General Service (Engineering), Air Engineering and Engineers of Submarine specialization. The said SRO, even assuming

that he wanted to influence the results of promotion to the rank of Captain, could have influenced the profile of only those officers who were from

Submarine specialization. Therefore, the contention of the officer does not take into account the relevant factors and lacks merit".

(e) The applicant's representation regarding his non empanelment for promotion was forwarded, at his request, to the next higher authority (MoD) for

reconsideration.

However, after due consideration, it was rejected by MoD.

(f) Based on the order of the Tribunal (Principal Bench) dated 31.07.2017 and 08.02.2018 in O.A. No 1112 of 2015, the applicant was put through a

Special Review Board on 02.05.2018 at IHQ of MoD (Navy). All assessments of the SRO (Respondent No. 3 in that case) had to be expunged from

the applicant's records and the recalculated quantified merit was to replace the old quantified merit, which included the assessments by the SRO. The

old quantified CR marks (out of 95%) in respect of the applicant in PB 2/14 was 81.81 and the applicant was awarded 3.76 (out of 5%) as Value

Judgment marks. Accordingly, with a weighted average of 85.57 marks, he was placed at Order of Merit (OOM) 18, which was below the threshold

weighted average of 86.17 for officers placed at ranks 12 and 13, which was the cut off for the thirteen vacancies available for the Engineer Branch

Officers. Now, after expunging the SRO's marks, his weighted average (out of 95%) had increased to 82.12 marks. The Special Review Board

awarded him 3.84 marks in Value Judgment (out of 5%) due to which his total weighted average worked out to 85.96 and, as his weighted OOM

remained at 18, he was thus rejected for promotion to the rank of Captain.

18. Our observations based on perusal of the proceedings of the Special Review Board conducted on 02.05.2018 at IHQ of MoD (Navy), in the

backdrop of the results of Promotion Board 2B/2014 conducted in August 2014, are as follows:-

(a) In Promotion Board 2B/2014, the officer ranked at No. 1 (out of 13 Engineers Branch Officers who were empanelled) had a CR average of 82.12

(out of 95%) and was awarded Value Judgment of 4.88 marks (out of 5%) to achieve a total of 87.00. In that Board, the applicant who had an original

CR average of 81.81 was awarded Value Judgment of 3.76 and placed at OOM rank 18. It is significant that the last officer empanelled for promotion

(OOM Rank 13) had Value Judgment marks of 4.47, consequent to which, he had a total of 86.17 and was ranked 13 (same marks as officer at

OOM 12). From these marks, it is obvious that, VJ marks were not awarded by the Promotion Board in a proportionate manner and thus resulted in

drastically altering the comparative overall merit/ promotion prospects of the applicant.

(b) In Special Review Board 2/2018, held consequent to order of the AFT (PB), the applicant's weighted average (out of 100%) marks, after

expunging SRO's ratings in three CRs from 25.06.2010 to 31.03.2012, has been shown as 85.96, after adding Value Judgment marks of 3.84. Thus,

subtracting 3.84 marks from 85.96 shows that the applicants RePARBed CR average marks out of 95% is 82.12, which is equal to the officer who

stood at OOM No. 1 in PB 2B/14. Hence, we find that the reason his rank did not improve beyond No. 18 is the disproportionately poor VJ marks

awarded to him by the Special Review Board conducted on 02.05.2018 consequent to order dated 08.02.2018 passed by this Tribunal, despite his CR

average pre-Board marks (out of 95%) having increased substantially.

19. In this regard, we refer to MoD policy dated 23.12.2010 on Value Judgment which at Para 3 states as follows:

3. The 'Value Judgment' marks awarded by the Selection Board will be kept at 5 as recommended by the Army HQ. However, in case the

award of Value Judgment mark alters the comparative overall merit of an officer resulting in changing promotion prospects, the Selection

Board should record the reasons for awarding low/ high Value Judgment marks which would help Competent Authority appreciate the

rationale and also facilitate in defending the decision should it be contested in the judicial forum.

20. By implication, as per above policy, the Value Judgment marks allotted by the Promotion Board, should normally not alter the pre-Board

comparative overall merit of an officer, resulting in changing his promotion prospects; and, in the extra-ordinary circumstances that that they do so,

there should be justifiable reasons for awarding low/high marks, which should be recorded in writing. However, we find that whereas the applicant has

been awarded relatively low VJ marks, which has drastically altered the comparative overall merit and changed his promotion prospects adversely, no

reasons for the same have been recorded by the Promotion Board. Clearly, this violates existing MoD policy both in letter and in spirit.

21. In the instant case, we find that the applicant's recalculated CR Average (out of 95%) become 82.12 (equal to CR average of officer placed at

first rank in Promotion Board 2B/14) after the SRO's ratings were expunged, however, the Special Review Board awarded him much lower VI marks

(as compared to officer at No. 1) which resulted in his rank in the OOM remaining at No. 18. The question that arises before us is, how can the pre-

Board OOM of two officers with same weighted CR average of 82.12 become No. 1 and No.18 after allocation of Vi marks. It is clear to us that the

Vi marks have been awarded arbitrarily, unfairly and contrary to MoD policy letter dated 23.12.2010 on the subject. Further, the Vi marks have been

awarded in a manner which appears contemptuous of this Tribunal's decision in OA No. 112 of 2015. Otherwise, with identical CR average marks,

how can 4.88 VJ marks be awarded to one officer, who resultantly was placed at No. 1 in the weighted OOM, and only 3.84 Vi marks is awarded to

the other (the applicant) resulting in his OOM remaining at No 18 and resulting in his non-empanelment for promotion. Despite the award of low Vi

marks by the Special Review Board having drastically altered the comparative overall marks (between two officers awarded equal marks in CR

average out of 95%) resulting in the applicant's non empanelment, there is not even a whisper in the Promotion Board proceedings explaining the

award of such high/ low Vi marks to either officer, as required by the extant policy. Clearly, arbitrariness, contrary to policy and the principles of

natural justice, is writ large in the proceedings of the Special Review Board and the same is, therefore, liable to be set aside.

22. We find that, if we award the VI marks similar to the last empanelled officer (OOM No.12/13) during the Promotion Board 2B/14, i.e. 4.47, the

total fresh weighted average marks become 86.59 marks, and the applicant is well within the minimum cut off of 86.17 marks that are required for

promotion.

23. In these circumstances, sending back the case to the respondents to reverse the apparent injustice is most likely to be an exercise in futility and

only result in further delay in justice being delivered to the applicant.

24. We are conscious of the fact that normally under these circumstances, the matter should have been remanded back to the departmental authorities

for reconsideration. In this case, finding various discrepancies in the manner in which consideration was made, we had remanded the matter back to

the department after quashing the Selection Board proceedings in the previous round of litigation. Instead of objectively considering the matter and

taking a decision in accordance with the requirement of law, as is evident from the proceedings placed before us, we are satisfied that the Special

Review Board did not conduct its exercise in the manner it was expected to. The

power available to this Tribunal is discretionary and supervisory in nature and if we are satisfied that the exercise of power has been done in a discriminatory and arbitrary manner, this Tribunal can always set right the errors of law to do substantial justice and a direction can always be issued to prevent grave miscarriage of justice, particularly when there is flagrant violation of law. The Tribunal is duty bound not only to protect a person from being subjected to violation of law, but to advance justice and not to thwart it. Neither the Constitution nor the statutory powers place any fetter on the powers of this Tribunal, but leaves discretion to do in a given set of circumstances to balance the competing interests, keeping in mind the interest of justice and public interest coalesce generally. In this regard, we may take note of certain observations made by the Supreme Court in the case of Ritesh Tewari and another v. State of Uttar Pradesh and others (2010) 10 SCC 677, particularly the observations made from Para 26 onwards and we have no hesitation in holding that now by sending back the matter to the departmental authorities, no useful purpose would be served, but on scanning the proceedings of the Review Selection Board and the material available before us, we are satisfied that it is a fit case where a direction can be issued to grant promotion to the applicant.

25. In the result, we set aside the proceedings of the Special Review Board 2/18 held on 02.05.2018 at IHQ of MoD (Navy). Thus, in the Special Promotion Board, we direct that the applicant will be awarded proportionate \LI marks, viz, equal to or more than the Vi marks awarded to the last empanelled officer in the original Promotion Board, viz. 4.47 marks and the proceedings of the Special Promotion Board of May 2018 will be amended accordingly. The applicant, who in the aforesaid circumstances, is entitled for empanelment for promotion, will be promoted notionally and granted the substantive rank of Captain from the original date of his batch. He will be entitled to pay accordingly till the date of retirement and thereafter to pension and all terminal benefits in his enhanced rank (Captain). Fresh PPO in the rank of Captain to be issued to the applicant. Arrears to be paid within a period of four months, otherwise, it will attract interest @ 6% per annum.

26. No order as to costs.

Pronounced in open Court on this the 12th day of February, 2020.