
(2012) 03 DEL CK 0242

In the Delhi High Court

Case No : Writ Petition (C) No. 380 of 2000

Molar Ram Sharma (Asst. Commandant)

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 23-03-2012

Acts Referred:

Border Security Force Act, 1968 — Section 31, 46

BSF (Seniority, Promotion and Superannuation of Officers) Amendment Rules, 1989 — Rule 7(2)

Penal Code, 1860 (IPC) — Section 354

Citation : (2012) 03 DEL CK 0242

Hon'ble Judges : Sudershan Kumar Misra, J;Anil Kumar, J

Bench : Division Bench

Advocate : M.G. Kapoor, for the Appellant; Barkha Babbar with Mr. Bhupinder Sharma, Commandant, BSF, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has filed the present petition praying, inter-alia, that the adverse remarks given to the petitioner in his ACR for the year 1995-96 be expunged and that he should be considered afresh for promotion to the post of Deputy Commandant and be treated as the officers of his own batch by retaining his original seniority with all the consequential benefits. The petitioner has further sought to initiate an independent enquiry against respondent Nos. 3, 4 & 5 for acting in concert to the detriment of the petitioner and to punish them if they are found guilty. The petitioner has also prayed for the compensation of Rs.10 lakhs due to the harassment, agony and loss of reputation suffered by the petitioner on facing false and fabricated criminal charges levelled against him out of ill will and malafides, which were allegedly subsequently found to be without any substance and were also dismissed. Brief facts to comprehend the disputes are that the petitioner was enrolled in the Punjab Armed Police (PAP) on 1st September, 1965 which was later on converted to BSF (Border Security Force) in March, 1966. The petitioner was thereafter, posted to the 57th Battalion B.S.F

located first at Fazika and later at Dera Baba Nanak from February, 1987 to February, 1991 where he served as the Inspector performing functions of a Company Second in Command and at times he even officiated as the Company Commander.

2. According to the petitioner, in the 57th Battalion he had served under Sh. U.K. Chaudhary, Commandant of the battalion, while the DIG of the force in the said sector was Mr. V.S. Sirohi, respondent No.3.

3. The petitioner also contended that under his able leadership he was involved in an armed encounter on 27th November, 1990 with the terrorists at Chandigarh Tent Post within the area of responsibility. According to him, in this successful operation five dreaded and listed terrorists had been killed and huge quantities of arms and ammunition, and Indian currency was captured from the terrorists. The petitioner asserted that as a consequence of this, his leadership and his devotion to duty was highly commended by his Commandant, Sh. U.K. Chaudhary.

4. The grievance of the petitioner is that the Second-in-Command of the battalion, Sh. Harpal Singh, was the blue eyed boy of the DIG V.S. Sirohi. The respondent No.3 had wanted to give the credit of the said encounter to Sh. Harpal Singh, so he even directed the Commandant Sh. U.K. Chaudhary to ignore the name of the petitioner for the gallantry award and respondent No.3 tried to get the award for his favorite Sh. Harpal Singh instead.

5. The petitioner alleged that he made representations against this act of the respondent No.3 which made respondent No.3 very inimical towards him. The petitioner has relied on the letter dated 21st January, 1992 by Sh. R.P. Dabas, Commandant to Sh. A.P. Pandey, IPS indicating that the petitioner had taken part in an encounter leading to the killing of some listed terrorists and on account of the clash of interest between CO/2 I/C, the SO had become a victim of witch hunting and was also being deliberately dragged into fabricated cases. It was further indicated that a bright, promising and selfless Commander had already suffered on account of this mudslinging game of conflicting interest and that he had been superseded in promotion to the post of Assistant Commandant. The Commandant, 7th Battalion BSF thus recommended that the interests of the said SO, Sh. Molar Ram/petitioner are required to be protected. Reliance is also placed on the letter dated 24th November, 1992 whereby Sh. U.K. Chaudhary, Commandant of the 57th Battalion, in respect of the allegations made by the petitioner, had sent his comments to the Deputy Inspector General, Sector Headquarter BSF Gurdaspur contending that the major share of credit for the successful operation went to Subedar Molar Ram because had he not swung into action without losing time, the terrorists would have found their way to the Babbar Khalsa Terrorists in India and in this connection he also referred to the report dated 27th November, 1990 pertaining to the said encounter in the area. He also stated that the cruel deprivation of due credit of successful encounter and wrongly awarding the same to Sh. Harpal Singh has pained him tremendously and thus he recommended that the petitioner's contribution to the successful

operation should be given due recognition.

6. The petitioner also alleged that though the Commandant, Sh. U.K. Chaudhary had graded him "excellent" in the Annual Confidential Reports, however, respondent No.3 had brought it down and on account of this the petitioner was even superseded in 1992 due to the malafides committed on the part of respondent No.3. The petitioner also contended that he had challenged his supersession to the post of Assistant Commandant by filing the writ petition being W.P(C) No.62/1994. The petitioner, however, disclosed that subsequently he was promoted as Assistant Commandant on 15th March, 1993 with the subsequent batch and was posted to the 88th Battalion BSF at Guwahati during the period of September, 1993 to January, 1995.

7. According to the petitioner, though he again showed the quality of his leadership in the encounter on 13th April, 1994 for which even his Commandant Sh. R.M. Kadian, respondent No.5 had highly praised him, however, subsequently he too became inimical towards the petitioner, as he had declined to carry out his illegal order of smuggling liquor from across the border, from Bhutan. Sh. R.M. Kadian, respondent No.5 also did not recommend his acts for the gallantry award and instead recommended others. Later on, he was also implicated in false criminal cases, however, the DIG, BSF, Guwahati after conducting an informal enquiry had dropped all the accusations levelled against the petitioner.

8. The plea of the petitioner is that despite all this, at the instance of respondent No.5 and respondent no. 3, he was transferred to the 118th Battalion with the intention of starting fresh action in respect of accusations, for which he had earlier been absolved of, by Sh. U.K. Chaudhary, DIG, BSF, Guwahati.

9. The petitioner relied on the Recommendation Card issued to him in April, 1995 for his praiseworthy performance in the Assembly Elections in Manipur during February, 1995. Reliance was also placed on the Signal (telegram) of the petitioner's Commandant sent on 6th April, 1996 appreciating the petitioner for managing the law and order situation in Assam during the assembly elections. The petitioner further relied on the letter dated 8th June, 1996 which was allegedly regarding the laudatory performance of the petitioner during the IS duties in Assam, Tripura, Kupwara, and Srinagar.

10. The petitioner disclosed that thereafter he was sent a letter dated 22nd June, 1996 along with the extracts of his Annual Confidential Report for the year 1995-1996. According to him, the extracts reveal that the ACR for the period 1995-96 did not contain any adverse entry against him.

11. Later on, by letter dated 9th November, 1996, the petitioner was sent the remarks relied on in his ACR for the period ending 31st March, 1996. The remarks incorporated in his ACR for 31st March, 1996 by letter dated 9th November, 1996 is reproduced as under:-

An intelligent and smart officer, who is potential to be a good field commander.

Requires supervision". "Since ROE is pending against him, his integrity cannot be certified.

By the said letter dated 9th November, 1996, the petitioner was also given an opportunity to make a representation, if any, regarding the remarks made in his ACR for the period ending 31st March, 1996.

12. The petitioner contended that the remark in his ACR for the period ending 31st March, 1996 was made at the behest of Sh. R.M. Kadian, respondent No. 5 and Sh. V.S. Sirohi, respondent No.3 to settle old scores with him. The petitioner also contended that the remark incorporated in his ACR for the period ending 31st March, 1996 was in fact an adverse remark. The petitioner, therefore, made a representation dated 26th November, 1996 against the alleged adverse remarks to the Inspector General, Border Security Force.

13. The petitioner was thereafter intimated by communication dated 4th August, 1997 that his representation against the remark made in his ACR for the period ending 31st March, 1996 had been examined and after careful consideration, the respondents were of the view that the request of the petitioner could not be acceded to as the remarks were based on facts, as well as on impartial and judicious assessment of his work and conduct during the said work.

14. The petitioner also relied on the communication dated 25th March, 1998 from Sh. U.K. Chaudhary to the Commander 57th Battalion, BSF indicating that the major credit for the successful encounter on 27th November, 1990 was attributable to the petitioner and despite the strong representation made by Sh. U.K. Chaudhary, Sh. V.S. Sirohi, respondent No.3 had directed Mr. U.K. Chaudhary to ignore the name of the petitioner while recommending the cases for the award of the gallantry medal.

15. The petitioner further disclosed that the ROE which was started against the petitioner was dismissed by the order dated 8th June, 1998 holding that on perusal of the evidence on record no prima facie case was made out against the petitioner u/s 46 and 31(b) of the BSF Act. The allegation against the petitioner was that he used criminal force on a woman with the intent to outrage her modesty which is punishable u/s 354 of the IPC, and also that he had extracted money from a person without proper authority.

16. Relying on these circumstances, the petitioner contends that he was overlooked for the promotion to the post of Deputy Commandant on account of the alleged adverse remarks in his ACR for the period ending 31st March, 1996 indicating that since the ROE is pending against him his integrity cannot be certified. Since the ROE was dismissed by order dated 8th June, 1998 the petitioner sought that his case for promotion to the post of Deputy Commandant be considered and he be accorded seniority accordingly, by his representation dated 12th October, 1998. The petitioner again represented on 15th January, 1999. However, by order dated 4th March, 1999 the petitioner was intimated that his representation against the supersession was rejected on 19th February, 1999.

While rejecting the representation of the petitioner by letter dated 19th February, 1999 it was stated that the petitioner was considered by the DPC held on 10th/11th August, 1998 for the empanelment and promotion to the rank of Deputy Commandant. It was stated that on the basis of his confidential reports, the petitioner was not recommended for promotion to the post of Deputy Commandant by the said DPC resulting in his supersession. The communication dated 19th February, 1999 also stipulated that the writ petition filed by the petitioner is pending before the High Court. The request of the petitioner for expunging the alleged adverse remarks wherein it was stated in his ACR for the period ending 31st March, 1996 that his integrity could not be certified as the ROE was pending against him, was also rejected by letter dated 29th April, 1999.

17. Aggrieved by not expunging the remark in his ACR for the period ending 31st March, 1996 and the petitioner's supersession as he was not recommended by the DPC held on 10th/11th August, 1998 for the empanelment and promotion to the rank of Deputy Commandant, the petitioner has challenged the same in the present writ petition on the ground that the adverse remarks given to the petitioner by DIG Vikram Singh is malafide and smacks of personal vendetta. The petitioner also pointed out that his Commander had lauded his performance, whereas, the DIG who was hundreds of miles away had commented adversely on his performance and that the said remarks of the DIG are not a true commentary of the petitioner's performance and thus could not be relied on. The alleged adverse remark that his integrity cannot be certified on account of the pendency of ROE is also challenged on the ground that the commandant at one time had lauded his performance, while on the other hand he had commented adversely on him on another occasion. According to the petitioner, after the dismissal of the ROE, the adverse remark that his integrity cannot be certified ought to have been withdrawn and fresh comments should have been noted. The petitioner further asserted that the remark that the petitioner "requires supervision" is also completely incongruent and is without any application of mind and that in the case of petitioner since the ROE was pending at the time the DPC was held, thus the "sealed cover procedure" ought to have been followed for his promotion to the next rank of Deputy Commandant. In the circumstances, it is pleaded that the recommendation of the DPC could not be relied on. The petitioner asserted that the whole episode is a sad and unfortunate commentary about the functioning of a superior officer, and the measures he would adopt while victimizing a junior officer due to personal vendetta.

18. The writ petition has been contested by the respondents who filed a counter affidavit dated 22nd May, 2001 of Sh. S.S. Sambyal, Deputy Inspector General (Personnel). The respondents in their counter affidavit disclosed that when the petitioner was working with the 57th Battalion BSF as an officiating Company Commander (in the rank of Subedar), an encounter had taken place on 27th November, 1990 with the intruders under the jurisdiction of petitioner's company, in which 5 intruders were killed and large number of arms and ammunitions were recovered. Relying on the detailed report of the encounter

prepared by the 57th battalion dated 5th December, 1990, it was contended that there was no significant contribution on the part of the petitioner in the said encounter.

19. The respondents further disclosed that from September, 1993 to April, 1995 when the petitioner was serving with the 88th battalion another encounter had taken place on 13th April, 1994 with the members of the outlawed ULFA. The said encounter was conducted by the DIG, Guwahati with the Commandant of 88th battalion, BSF and the Tezpur Police Personnel under the command of Additional SP Sonitpur, Assam. The respondents disclosed that on this occasion as well the petitioner did not make any substantial positive contribution to the operation which was revealed from the spot verification.

20. According to the respondents, the petitioner was transferred to D Company of the 88th Battalion BSF and he had assumed charge at the 118th Battalion on 5th May, 1995. It is also disclosed that some allegations against the petitioner about taking illegal gratification and outraging the modesty of females during the period of March, 1994 to May, 1994 were also received when the petitioner was posted in "D" Company of the 88th Battalion at Charduar and Udalguri in 1994. Accordingly an SCOI was ordered vide FTR HQ Shillong order dated 12th July, 1995 followed with an additional inquiry by order dated 15th April, 1996. The petitioner was attached to the 64th Battalion at that time. The respondents alleged that the SCOI blamed the petitioner for attempting to outrage the modesty of one civilian lady at village Murikhuthi and accepting illegal gratification of Rs.800/- from Sh. Om Prakash Chaudhary at village Namba Bhakula in the year 1994. Later on, by the order dated 20th February, 1997, disciplinary action was initiated against the petitioner. The petitioner was later attached with the 80th Battalion BSF for disciplinary action and accordingly the ROE and additional ROE was recorded. However, in the ROE's the charges against the petitioner could not be proved due to change of the statements of the witnesses. The prime witnesses were also not available as their whereabouts were not known and accordingly the Commandant of the 80th Battalion BSF dismissed the charges against the petitioner by order dated 9th June, 1998.

21. The respondents, however, made a specific averment in the counter affidavit filed on their behalf that the DPC did not recommend the case of the petitioner for promotion to the rank of Deputy Commandant on account of the existence of the adverse remarks in the ACR of the petitioner for the year 1995-96 which resulted in the supersession.

22. The respondents also pointed out the contradictory stand taken by the petitioner, as in the present writ petition the petitioner has contended about the satisfaction of Sh. U.K. Chaudhary, Commandant 57th Battalion, BSF, however, in the writ petition No.62/1994, which was filed by the petitioner against his supersession to the rank of Deputy Commandant, the petitioner had shown his dissatisfaction with the said Commandant. The respondents stated in para 4 of the counter affidavit as under:-

.....At para 10 of that writ petition he expressed his dissatisfaction with Shri U.K. Chaudhary, Commandant 57 Bn BSF. The relevant excerpts would clear the position. They are as follows:

that at the relevant time the Commandant of the Bn was U.K. Chaudhary and his Second-in-Command was Shri Harpal Singh. Both these officers tried to take credit for planning and conducting the aforementioned operation (operation against the intruders dated 27/11/90). In that process lot of mud-slinging took place between them and both of them tried to push the real hero of the operation, the petitioner into the back ground", "as a result of the tug of war between these two officers, the achievements of the petitioner were eclipsed", "it is possible that some thing damaging might have been recorded in his ACR but nothing has been communicated to him till date.

23. Regarding the plea of the petitioner that the Second-in-Command Harpal Singh wanted to take the credit though he had no substantial role in the operation, the same fact was denied by the respondents and it was asserted that the second-in-command, Sh. Harpal Singh in fact commanded the entire operation, thus credit for the success of the operation automatically went to him. To refute the allegation of the petitioner, reliance was also placed on the detailed report prepared by the Commandant 57th Battalion on 5th December, 1990 which does not refer to any specific gallantry action on the part of the petitioner so as to entitle him for a medal. The allegation that the DIG had issued direction to the Commandant, 57th Battalion for ignoring the name of the petitioner for the gallantry award was also not admitted and was specifically denied. It was also asserted that the petitioner had fired LMG and bombs on the intruders without yielding any results. On the basis of the detailed report it was contended that it does not disclose any action on the part of the petitioner which would entitle him to a medal. The respondents in detail denied various other allegations made by the petitioner regarding his alleged gallantry actions in different roles and encounters on different dates.

24. The respondents categorically denied in their counter affidavit that the adverse remark, stipulating that since the ROE was pending against the petitioner his integrity cannot be certified, was made at the behest of Sh. Vikram Singh, Sh. R.M. Kadian and Sh. V.S. Sirohi, IG, BSF, Shillong. The respondents contended that they were the Initiating Officer, Reviewing Officers and Accepting Authority respectively in finalizing the ACR and that all the officials had endorsed their independent remarks based on their objective assessment on the overall performance and conduct of the officer reported during the particular ACR in question.

25. Regarding the DPC held in 1998 it was disclosed that the DPC considered the entire material and did not find the petitioner suitable for recommendation for promotion to the post of Deputy Commandant. The representation by the petitioner was received and was disposed of. The representation dated 15th January, 1999 addressed to the Director General was also considered and after

considering the facts and record, the same was rejected and was conveyed to the petitioner by letter dated 29th April, 1999.

26. Despite the affidavit filed on behalf of the respondents by Sh. S.S. Sambyal, working as the Deputy Inspector General (Personnel), who also verified the contents of the affidavit as true to his knowledge and belief and as per the official records available, the petitioner did not file any rejoinder to the pleas and contentions raised by the respondents in their counter affidavit dated 7th May, 2001.

27. The learned counsel for the petitioner, however, contended that he does not have any instructions from the petitioner despite various communications addressed by him to the petitioner. The learned counsel for the petitioner, Mr. Kapoor contended that he has made submissions on the basis of the record, a copy of which he was able to obtain from the Court record and from the counsel for the respondents as the petitioner had taken away the file of the case from him.

28. The matter was taken up for arguments on 6th February, 2012 and the matter was partly argued. Thereafter, the matter was again taken up for hearing on 5th March, 2012, however, no application was filed by the learned counsel for the petitioner for his discharge from the case on any other grounds, rather the matter had been argued substantially by the learned counsel. On 6th February, 2012 the respondents were directed to produce the original record relating to the instructions with regard to the DPC, especially the guidelines for the DPC. The respondents produced the minutes of the meeting of the DPC held on 10th and 11th August, 1998 for the consideration of the cases of Assistant Commandant for their empanelment and eventual promotion to the rank of Deputy Commandant after one year relaxation in service eligibility granted by DOP&T/MHA in the BSF.

29. Perusal of the original record produced by the respondents reveals that the DPC had indeed considered the case of the petitioner for empanelment and promotion to the rank of Deputy Commandant with other eligible Assistant Commandants. The DPC had also graded the Assistant Commandants who were considered for empanelment for promotion to the rank of Deputy Commandant, however, the petitioner was graded as unfit. Perusal of the record reveals that not only the petitioner but some other Assistant Commandants were also graded as unfit for promotion whereas some of them were graded as "Good" and others were graded "Very Good". In case of some of the Assistant Commandants the "sealed cover procedure" was adopted as the proceedings against them were pending. The name of the petitioner in the list of officers who were considered for empanelment has appeared at serial No.170 with IRLA No.49160. Perusal of the record also reveals that the departmental promotion committee which considered the cases of Assistant Commandants on 10th August, 1998 comprised of the Director General, BSF as its chairman; IG, BSF as member; IG (Personnel) BSF as a member; another IG, BSF as a member; DS (CPO) MHA as a member

and DIG, BSF a Co-opted member. The minutes also revealed that the Additional DG, BSF could not be present in the DPC meeting but in accordance with Rule 7(2) of the BSF (Seniority, Promotion & Superannuation of Officers) Amendment Rules, 1989 the DPC could consider the cases in absence of any member and the DPC proceedings could not be invalidated, if more than half the members of the DPC were present.

30. It is also apparent that 31 officers were graded as unfit for promotion to the post of Deputy Commandant by the said DPC and thus, the petitioner was not the only person who was graded unfit. However, it is pertinent to note that while grading the petitioner unfit, no comment was recorded declaring him unfit on account of the pendency of the ROE or any alleged adverse remark in any of his ACRs. Whereas the DPC categorically recorded the reasons for not empanelling some of the officers, as the detailed reasons were mentioned against their names, however, no reasons were mentioned before the name of the petitioner for grading him unfit. Thus, it is conspicuous in case of the petitioner that he was not recommended "unfit" on account of remark in his ACR OF 1996 that his integrity cannot be certified as ROE was pending against him. No such reason is apparent or can be inferred from the perusal of the entire record, except that the DPC found him unfit for promotion to the post of Deputy Commandant considering his relevant ACRs.

31. From the perusal of the minutes of the DPC it does become apparent and clear that on consideration of the ACRs of the petitioner he was found unfit for promotion to the rank of Deputy Commandant and not on account of the alleged adverse remarks made in his ACR for the period 31st March, 1996 that his integrity cannot be certified as the ROE was pending against him though it is so stipulated by the respondents in the counter affidavit. The averment made by the respondents in their counter affidavit is also not in consonance with the original record which was produced by the respondents at the instance of this Court. In case of any variation in the averments made by the respondents and the original record, this Court is of the opinion that the original record will prevail and not the averment made in the affidavit on behalf of respondents.

32. The plea of the learned counsel for the petitioner that the averment made by the respondents that the petitioner was not recommended on account of adverse entry in his ACR for the period ending 31st March, 1996 shall prevail, cannot be accepted in the facts and circumstances. In any case, the petitioner did not refute any of the allegations made by the respondents as no rejoinder was filed to the averments made by the respondents in their counter affidavit.

33. The record produced by the respondents also has the synopsis of the ACRs of the candidates which were produced before the DPC which met on 10th August, 1998 for empanelment and promotion of Assistant Commandants to the post of Deputy Commandants. The synopsis of the ACRs of the petitioner in that record appears at serial No.170 which has been perused by this Court. The synopsis of the ACRs was in respect of ACRs for 1993-94; 1994-95; 1995-96; 1996-97 and

1997-98.

34. The respondents have also produced the original ACRs of the petitioner for the period 1993-94; 1994-95; 1995-96 and from 1st April, 1996 to 31st July, 1996 and for 1997-98. The ACR of 1995-96 is for the period 6.5.1995-1996. On twenty different parameters, marks have been given by the I.O and R.O. The assessment of I.O and R.O for twenty parameters is almost same. There is a marginal difference of two marks between the I.O and R.O. The ACR also have the remark of Final Acceptance Authority as "Since ROE is pending against him, his integrity cannot be certified". This is dated 3.9.1996. There is another endorsement dated 5th August, 1998 as "ROE completed & CA dismissed the Charge". Both I.O and R.O has graded him as average. Since the DPC had met on 10-11th August, 2008 and noting about dismissal of charges and completion of ROE was made on 5th August, 2008 on the ACR of 1995-1996. Consequently, the remark in the ACR of 1995-1996 that since ROE is pending against the petitioner and, therefore, his integrity cannot be certified made on 13th September, 1996 had been clarified that ROE was completed and the charges has been dismissed on 5th August, 1998 and, therefore, while taking the ACR into consideration on 10th/11th August, 1998, the DPC has not declared the petitioner "unfit" on account of said remark and the plea of the petitioner to that effect cannot be accepted.

35. Though synopsis of the ACRs of the petitioner which was before the DPC showed Very Good for 1993-1994; Average for 1994-1995; Average for 1995-1996; Blank for 1996-1997 and Very Good for 1997-1998, however, perusal of the ACR of 1996-1997 shows that the ACR was for the period 1st April, 1996 to 31st July, 1996 and the petitioner was graded as Good. The grading of the petitioner was on the basis of the marks awarded in respect of 20 parameters. The marks awarded by the IO and RO only entitled the petitioner for the grading "Good". The yardstick for awarding different grading had been, over 90, Outstanding; between 76-90, Very Good; 61-75, Good; 50-60 Average and below 50 Poor. The petitioner's plea that he was graded Average for 1995-96 on account of the acts imputable to respondent Nos. 3 to 5, therefore, cannot be accepted. The petitioner was given marks on the 20 different parameters for the year 1993-1994 by the IO and RO so as to be graded as Very Good, whereas for 1994-1995 the grading by the RO entitled him for the grading of Average. Similar is the situation for the year 1995-1996 for the period 6th May, 1995 to 31st March, 1996. On detailed perusal of the minutes of the DPC and ACRs of the petitioner as well as the entire record has been produced by the respondents, this Court is unable to accept the pleas and contentions of the petitioner that the DPC had held him unfit on account of the `remark" and on account of the acts imputable to respondent Nos. 3 to 5. The petitioner in the facts and circumstances is not entitled for a direction that the remark that his integrity cannot be certified on account of ROE be expunged as that remark had been expunged on 5th August, 1998 prior to the date DPC had considered the said ACR. The petitioner is also not entitled for fresh consideration for promotion to

the post of Deputy Commandant after expunging the said remark as the DPC has considered the petitioner with the said remark removed prior to the date the DPC which met on 10th/11th August, 1998. The petitioner, therefore, is also not entitled to be selected for the post of Deputy Commandant with other officers of his own batch, nor can he retain his original seniority with all consequential benefits. The petitioner is also not entitled for any independent enquiry against respondent Nos. 3 to 5, nor he is entitled for a compensation of Rs.10 lakhs or any other amount. The petitioner cannot claim harassment and loss of reputation on account of alleged criminal charges from the respondents in the facts and circumstances in the present writ petition. Reliefs claimed by the petitioner cannot be granted in the facts and circumstances. The writ petition is without any merit and is liable to be dismissed. The writ petition is, therefore, dismissed. The parties are, however, left to bear their own cost.