

Court No. 2**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****TRANSFERRED APPLICATION No 26 of 2014**Monday, this the 04th day of April 2016**Hon'ble Mr. Justice D.P. Singh, Member (J)**
Hon'ble Air Marshal Anil Chopra, Member (A)IC-46253N Lt Col Anil Chandra S/O Late Avadh Behari Chandra
Dandriyal Flat No 1D, Block No 2, JSA Enclave, Fort William,
Kolkata PIN-700027

...Petitioner

Ld. Counsel for the: **Shri V.P. Pandey, Advocate**
Petitioner

Versus

1. Union of India, thru Secretary, Ministry of Defence,
South Block, New Delhi DHQ PO 110011.
2. Chief of Army Staff, South Block, New Delhi, DHQ PO
110011.
3. Military Secretary, South Block, New Delhi DHQ PO
110011.
4. ADG Pers, AG's Branch, Sena Bhawan, IHQ of MoD
(Army), New Delhi 110011.
5. Judge Advocate General Sena Bhawan, N Delhi 11

.....Respondents

Ld. Counsel for the : **Shri S.N. Pandey,**
Respondents **Central Govt Counsel assisted by**
Lt Col Subodh Verma, OIC Legal
Cell and Col Rajiv Menon, Col MS
(Legal).

ORDER (ORAL)

1. We have heard Ld. Counsel for the parties, OIC Legal Cell and Col Rajiv Menon, Col MS (Legal) and perused the records.
2. The present petition has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 being aggrieved with the impugned order dated 21.05.2013.
3. After disposal of representation of the petitioner dated 26.07.2008 & 23.06.2012 the petitioner has collected certain material through Right to Information Act (RTI Act) from the respondents which according to Ld. Counsel for the petitioner has bearing over the controversy in question with regard to further promotion of the petitioner on the post of Colonel. The second statutory complaint of the petitioner dated 23.06.2012 has been rejected by impugned order dated 21.05.2013. For convenience sake the operative portion of the order dated 21.05.2013 is reproduced as under:-

“The statutory complaint of the officer has been examined in the light of his career profile, relevant records and analysis/recommendations of Army Headquarters. After consideration of all aspects of the complaint and examining it against the redress sought, it has emerged that all CRs in the reckonable profile are well corroborated, moderated and performance based. There being no evidence of any bias or subjectivity none of the

CRs merit any interference. Contention of the officer on other issues has been checked and has been found devoid of merit.

The officer has not been empanelled for promotion to the rank of Col on account of his overall profile and comparative merit.

The Central Government rejects the Statutory Complaint dated 23 Jun 2012 submitted by IC-46253N Lt Col AK Chandra, JAG against non empanelment for promotion, being devoid of merit.

By order and in the name of the President

sd/- x x x x x

(R Sunder)

Under Secretary to the Government of India”

4. A plain reading of the order shows that after discussing the grounds raised by the petitioner in second statutory complaint, it has been rejected merely with the observation, “After consideration of all aspects of the complaint and examine against the redress sought, has emerged that all CRs in the reckonable profile are well corroborated, moderated and performance based there being no evidence of any bias or subjectivity none of the CRs merit interference. Contention of the officer on other issues has been checked and has been found devoid of merit”. Keeping in view of the fact that evidence of bias or subjectivity raised by the petitioner has not been taken into consideration even in brevity the impugned order is hit by Article 14 of the Constitution of India. In a recent

judgment of Hon'ble Supreme Court in the case ***State of Punjab vs Bandeep Singh and others***, 2016 (1) SCC 724 it has been held by their Lordships of Hon'ble Supreme Court that order must conform to reason. It has been observed by their Lordships of Hon'ble Supreme Court that decision must be composite and self sustaining one containing all reasons which prevailed on the officer/official to arrive his conclusion.

5. In view of our observations made herein before we allow the T.A. and remit the matter back to the competent authority to pass a speaking and reasoned order keeping in view the grounds raised by the petitioner expeditiously, say, within six months from the date of production of certified copy of this order.

6. We make it clear that we have not entered into the merits of the controversy.

7. T.A. is **allowed** accordingly.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

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(Justice D.P. Singh)
Member (J)