

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C)No.138 of 2018

Shri Om Dutta Sharma, aged about 48 years old, S/o (late) T.R. Sharma of H.N. FCA-45, Gali No.3 Adarsh Nagar, Malerna Road, Ballabgarh, Faridabad District, Haryana State and now residing at 11 Assam Rifles, Moreh, Tengnoupal District, Manipur State.

..... *Petitioner*

– Versus –

1. The Union of India through the Secretary (Ministry of Home Affairs), Government of India, North Block, New Delhi-1
2. The Director General, Assam Rifles, Shillong C/O 99 Army Post Office.
3. The Major General, IGAR (South), Mantripukhri, Imphal East- 795002.

.... *Respondents*

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner : Mr. HS Paonam, Sr. Adv & N. Bipin,
Adv.
For the Respondents : Mr.S. Samarjeet, CGC
Date of reserved : 21.12.2021
Date of Judgment & Order : 19.01.2022.

JUDGMENT & ORDER
(CAV)

[1] This writ petition has been filed by the petitioner seeking to quash the impugned order dated 1.5.2017 imposing a punishment of censure on the petitioner.

[2] Briefly stated case of the petitioner is as follows:

The petitioner was initially joined the services of Assam Rifles as Lance Naik Writer/Clerk in the year 1993 and subsequently, reached to the rank of Deputy Commandant with effect from 1.4.2014. During the service from the status of Lance Naik Writer/Clerk, the petitioner has been serving at different difficult posting places where the service of the petitioner was appreciated by his

superior. The petitioner has completed all the prescribed departmental examination required for consideration for promotion to the higher post.

[2.1] A selection process of Assam Rifles Cadres Officers was held as part of FPU for deployment in UN Mission at Haiti by the authority of Assam Rifles HQ DGAR (Military Secretary Branch) in the year 2015 and in the said selection process, the petitioner was also provisionally selected along with the other eligible officers by the competent authority of Assam Rifles for deploying in the said UN Mission at Haiti vide order dated 22.2.2015. In the said order, the petitioner was kept as reserved under bravo group and further instruction from the GS Branch Comma will be issued and also directed to submit undertaking countersigned by their respective competent authority by 29.2.2015.

[2.2] One of the officer who was also recommended for the said deployment in UN Mission namely Uttam Singh who had already been asked to report to Assam Rifles Training Centre and School, Shokhuvi for the purpose of medical examination and training along with other selected officers, his selection for deployment of the said Mission was cancelled only on medical ground and thus, the said offer has returned back to his posting place i.e. HQ

26 Sector Assam Rifles. As per the norms and conditions, the petitioner should have been upgraded from the reserve category to selection since the petitioner is the only officer in GD category kept reserved by HQ DGAR. However, the petitioner was not given any chance for participation in the said Mission because of altogether irregularity method of empanelling by constitution a fresh board of officers by inviting fresh candidates for deploying in the said UN Mission totally by ignoring the case of the petitioner, who was admittedly kept on reserve for the same.

[2.3] Subsequently, a Staff Court of Inquiry was conducted on the complaint made by the petitioner against some of the officers for their corrupt practice in the Assam Rifles Organisation who were involved in the selection of Assam Rifles Cadre Officers for deployment in UN Mission at Haiti to the competent authority for looking into the correctness of the complaint made by the petitioner and also for investigating into the allegation made by the petitioner in connection with the selection of Assam Rifles Cadre Officers as part of FPU for deployment in UN Mission at Haiti by 1.9.2016. The aforesaid complaint was lodged having regard to sudden departure from considering a reserve candidate for deployment in the UN Mission within time and sending altogether

another person purportedly on the recommendation of a subsequent Selection Committee.

[2.4] After completing of Court of Inquiry, the authority of Assam Rifles issued a show cause notice to the petitioner on 29.9.2016 on the basis of the proceedings of the Court of Inquiry as under:

(a) Making false and baseless allegations against IC- 52627P Col Vijay Chahar, Col MS, HQ DGAR of the use of influence/bribe in selection of Assam Rifles Cadre Officers for UN Mission at Haiti (7th Contingent) thereby adversely affecting his character and reputation.

(b) Violating laid down channels of correspondence for addressing grievances and directly approaching Hon'ble Home Minister, Home Secretary and Chief of Army Staff without using system of Open forum of DG AR or any other communication to convey your grievances about the selection process for the officers to UN Mission at Haiti (7th Contingent).

[2.5] In the said show cause notice, it was mentioned that his censure in appropriate form is called for in view of the above mentioned lapses on the part of the petitioner and thus afforded an opportunity to explain in detail and submit his reply to the said show cause notice within one month. Accordingly, the petitioner submitted his detailed reply on 15.11.2016. Though a copy of the

proceedings was furnished to the petitioner, he was not given the findings and opinion of the Court of Inquiry. However, the authority of Assam Rifles issued an order conveying its approval for issuing the impugned censure order against the petitioner, which is challenged in this writ petition.

[3] Respondents 1 to 3 filed affidavit-in-opposition stating that the petitioner was found guilty of making false and baseless allegation against the respondent authorities and consequently, after compliance of the disciplinary proceedings, the competent authority served him the impugned censure order. As such, the impugned order is not liable for interference. It is stated that before the issuing the impugned censure order, the competent authority issued a show cause notice on 29.9.2016 to the petitioner for making false and baseless allegations against Col Vijay Chahar of Headquarters Directorate General Assam Rifles and also violating the laid down channels of correspondence for addressing grievances. Since the reply given to the show cause notice was found unsatisfactory, the impugned censure order dated 1.5.2017 was issued to the petitioner by the competent authority after considering the findings of the Court of Inquiry and reply to the show cause notice.

[4] It is stated in the affidavit-in-opposition that according to the provision of Standing Operating Procedure on the subject matter, it is evident that barring the officer in the rank of Commandant, officer and reserve in various ranks and categories were selected as per the existing policies and provisions in vogue. However, after the final selection, reserves were available in the rank of 21C, Deputy Commandant, Assistant Commandant and Medical Officer. The selection procedure was carried out in very fair manner as per existing rules and regulations on the subject matter. Therefore, the allegation of the petitioner that he should have been selected in the place of Assistant Commandant Uttam Singh who was medically rejected is not correct and devoid of merit as he was not eligible being Deputy Commandant for selection in the vacancies created for Assistant Commandant and the same is not tenable as per the existing policies on the subject in vogue so that the officer selected as reserve in the rank of Deputy Commandant cannot be selected against the vacancy of Assistant Commandant. The selection was categorized as per the rank structure and carried out in very fair manner following the rules and regulations existing on the subject.

[5] It is also stated that the Court of Inquiry was conducted in a fair

manner and not subjected to unnecessary, unwarranted scrutiny and interference. Hence, the correspondences made by the petitioner to various competent authorities were not taken cognizance of as they were only baseless allegations and statements without substantial proof. Consequent to the completion of the Court of Inquiry, an administrative action was initiated against the petitioner. Any interference at this belated juncture will not only render the whole procedure null and void, but will also result in infructuous loss of colossal amount of man-hours and further justice would be denied. In fact, the petitioner is trying to confuse this Court to get sympathy and hence, he has filed the instant writ petition. The allegation of the petitioner that a copy of proceedings was furnished to him without findings and opinion of the Court of Inquiry is bereft of merit and is liable to be dismissed. According to the respondents, all the actions of the respondents are in consonance to the laid down rules and regulations keeping in view the highest traditions of honesty and moral integrity required of Cadre Officers and in no way is contrary to the Assam Rifles Rules and Assam Rifles Act. Hence, there is no irregularity in issuing the impugned censure order and, therefore, the writ petition is liable to be dismissed.

[6] Assailing the impugned order dated 1.5.2017, H.S Paonam, learned senior counsel for the petitioner submitted that though the Court of

Inquiry was conducted on the complaint made by the petitioner, the whole proceedings was biased, fabricated and preconceived as the same was conducted by regimental and their choice of officers which otherwise would have not been included as members, if fair process was taken by the respondent authorities keeping in mind the rule of law. He would submit that the Presiding Officer of the Court of Inquiry and Col Vijay Chahar against whom the allegation was made by the petitioner were from RAJ RIF of Indian Army served together and also both are very close friends.

[7] Learned senior counsel for the petitioner further submitted that the Members of the Court of Inquiry were serving with the accused officer in the same campus and they both were also very close friends of Col Vijay Chahar. Since the authority of the Assam Rifles have not taken action, the petitioner has directly approached the Hon'ble Home Minister, Home Secretary and Chief of Army Staff with regard to various issues of corruption, illegal activities and other wrong doings of the Assam Rifles authorities.

[8] Learned senior counsel further submitted that a show cause notice issued by giving one month time was afforded to the petitioner to explain in detail qua the punishment and the petitioner has submitted his detailed reply

dated 15.11.2016 highlighting the circumstances leading to the biasness and influenced of the higher authority and copy of the proceedings was furnished to the petitioner, however, furnishing the findings and opinion of the Court of Inquiry, the impugned order came to be issued. By way of the impugned order, the petitioner was ordered to impose penalty of severe displeasure and thus censuring him from any kind of promotion including deployment of UN Mission at Haiti and the same is unsustainable in law.

[9] Learned senior counsel for the petitioner next submitted that the impugned censure order which is derived from the finding and opinion of the Court of Inquiry which however has been withheld from the petitioner thereby depriving the petitioner from making effective representation and challenge to the impugned order thereby rendering the same unsustainable due to bias of arbitrariness.

[10] Learned senior counsel for the petitioner argued that because of the impugned censure order, the petitioner's promotion avenue was affected as the petitioner was provisionally selected by the competent authority for deploying in the UN Mission at Haiti and was further kept in the reserved category. Further, following the cancellation of selection of Shri Uttam Singh for

deployment of the said Mission on medical ground, the petitioner was the only officer who has to be upgraded from reserve category to selection against the vacancy of Shri Uttam Singh, Assistant Commandant. However, by the irregularity method of empanel, a fresh Board of Officers was constituted by inviting earlier failed candidates for deploying in the said UN Mission ignoring the case of the petitioner with bias motive. He would submit that since the petitioner was already kept in reserve category, his name ought to have been included by the concerned officer namely Col Vijay Chahar in the noting sheet to get approval of the competent authority at HQ DGAR by following the norms and practice in this regard, but it was not done due to biasness and wrong intention of Col Vijay Chahar.

[11] Per contra, Salam Samarjeet, learned Central Government Counsel for the respondents submitted that the petitioner was found guilty of making false and baseless allegation against the respondent authority and consequently, after compliance of disciplinary proceedings, the competent authority served him the impugned censure order and as such, the impugned order is not liable to be interfered with.

[12] Learned counsel for the respondents further submitted that once an Army personnel is found to be guilty of the charges made against him, it is not open for the Court to interfere with the sentence awarded by the Court of Inquiry and that awarding of the sentence is within the powers of the Court of Inquiry and exercising jurisdiction under Article 226 of the Constitution of India, the Court cannot interfere with the punishment.

[13] Learned counsel for the respondents next submitted that the Court of Inquiry headed by a Deputy Inspector General was convened to investigate into the allegations made by the petitioner and the Court of Inquiry found that there was no proof on the use of bribe on the part of Col Vijay Chahar, the then Col (MS), Headquarters Directorate General Assam Rifles. Accordingly, as per the direction of the competent authority, the petitioner was issued with a show cause notice on 29.9.2016 for making false and baseless allegations against Col Vijay Chahar and the petitioner replied to the show cause notice on 15.11.2016. Since the reply given by the petitioner found to be unsatisfactory, on 1.5.2017, the impugned censure order was issued to the petitioner by the competent authority after considering the findings of the Court of Inquiry and reply to the show cause notice. As there was no arbitrariness in issuing the

impugned order, learned counsel for the respondents prayed for dismissal of the writ petition.

[14] This Court considered the submissions made by learned counsel appearing on either side and also perused the materials available on record.

[15] It was mainly urged on behalf of the petitioner that the impugned order came to be issued without supplying the findings and opinion of the Court of Inquiry and therefore, the same is vitiated in the eye of law.

[16] It is admitted by both parties that the petitioner was enrolled in Assam Rifles with effect from 30.12.1992 and he was appointed as Assistant Commandant through a limited departmental competitive examination with effect from 10.12.2007. The petitioner has represented numerous times on various allegations related to purported corruption and harassment. On 1.6.2016, the petitioner submitted his complaint to the Home Minister, Home Secretary, Ministry of Home Affairs, Chief of Army Staff with a copy to the Directorate General Assam Rifles directly regarding anomalies in selection of Assam Rifles Cadre Officers for UN Mission (Haiti). Based on the complaint, a Staff Court of Inquiry headed by Brig SP Vishawas Rao, SM, DIG 22 Sect AR

was convened to investigate into the allegations made by the petitioner in his complaint dated 1.6.2016.

[17] It appears that the complaint dated 1.6.2016 of the petitioner was lodged having regard to the sudden departure from considering a reserve candidate for deployment in the UN Mission within time and sending altogether another person purportedly on the recommendation of a subsequent selection Committee.

[18] It also appears that after completion of Court of Inquiry, the competent authority issued a show-cause notice dated 29.9.2016 to the petitioner with the following counts:

(a) Making false and baseless allegations against IC- 52627P Col Vijay Chahar, Col MS, HQ DGAR of the use of influence/bribe in selection of Assam Rifles Cadre Officers for UN Mission at Haiti (7th Contingent) thereby adversely affecting his character and reputation.

(b) Violating laid down channels of correspondence for addressing grievances and directly approaching Hon'ble Home Minister, Home Secretary and Chief of Army Staff without using system of Open forum of DG AR or any other communication to convey your

grievances about the selection process for the officers to UN Mission at Haiti (7th Contingent).

[19] In the show cause notice, the authority stated that censure in appropriate form is called for, for the lapses on the part of the petitioner and required the petitioner to explain his conduct on the above counts as to why censure of DG AR in appropriate form be not conveyed to him within one month. On a perusal of the reply dated 15.11.2016, it is seen that the petitioner has submitted a detailed reply, wherein he has also requested the DG AR to order a fresh Staff Court of Inquiry against the concerned. Thereafter, the DG AR, by the impugned order dated 1.5.2017, issued censure order.

[20] By the impugned censure order, the DG AR stated as under:

“1. I have considered the reply 15 Nov 2016 to the Show Cause Notice submitted by AR 288L Deputy Commandant Om Dutt Sharma of 11 Assam Rifles received vide HQ IGAR(S) letter No 1551/A-Discp/COI-ODS/2017/39 dated 31 Jan 2017.

2. I agree with the recommendations of IG AR(S) and have concluded that AR 288L Deputy Commandant Om Dutt Sharma has lapsed on the following issues:-

(a) Making false and baseless allegations against IC- 52627P Col Vijay Chahar, Col MS, HQ DGAR of the use of influence/bribe in selection of Assam Rifles Cadre Officers for UN Mission at Haiti

(7th Contingent) thereby adversely affecting his character and reputation.

(b) Violating laid down channels of correspondence for addressing grievances and directly approaching Hon'ble Home Minister, Home Secretary and Chief of Army Staff without using system of Open forum of DG AR or any other communication to convey your grievances about the selection process for the officers to UN Mission at Haiti (7th Contingent).

3. I, therefore, direct that my 'Severe Displeasure (Recordable)' be conveyed to AR 288L Deputy Commandant Om Dutt Sharma."

[21] Learned counsel for the respondents, by placing reliance upon the decisions of the Hon'ble Supreme Court in the cases of *Union of India and others v. R.K.Sharma, (2001) 9 SCC 592* and *State of Meghalaya and others v. Mecken Singh N.Marak, (2008) 7 SCC 580*, submitted that the High Court or the Supreme Court by exercising power under Article 226/227 or Article 32 of the Constitution of India should not interfere with the punishment merely because it considers the punishment to be disproportionate and it is only in extreme cases, which on their face show perversity or irrationality that there can be judicial review. Merely on compassionate grounds, a Court should not interfere.

[22] It is true that the scope for interference is very limited and restricted to exceptional cases. The jurisdiction of the High Court to interfere with the quantum of punishment is limited and cannot be exercised without sufficient reasons. The High Court, although has jurisdiction in appropriate case to consider the question in regard to the quantum of punishment, but it has a limited role to play.

[23] It is well settled that the High Courts, in exercise of powers under Article 226 of the Constitution of India, do not interfere with the quantum of punishment unless there exist sufficient reasons therefor.

[24] In the instant case, the issue of punishment being disproportionate is not a question to be considered. The point for consideration is whether the impugned censure order is vitiated on the ground of non-supply of findings and opinion of the Court of Inquiry and whether with the collusion and influence of the Presiding Officer and the Members of the Court of Inquiry and the officer against whom the allegation was made, the inquiry proceedings was conducted and issued the impugned order. In the given facts and circumstances of the case, this Court is of the view that the decisions cited by learned counsel for

the respondents are not directly helpful to the case of the respondents and therefore, the same are not further elaborated.

[25] As could be seen from the records, after issuance of the show cause notice, the petitioner submitted two applications dated 26.8.2016 and 14.10.2016 for supply of copy of Court of Inquiry. According to the petitioner, till date there was no response on his two applications. However, without findings and opinion of the Court of Inquiry, a copy of Court of Inquiry was furnished to the petitioner.

[26] In the instant case, failure on the part of the concerned authority not furnishing the findings and opinion of the Court of Inquiry to the petitioner has not been properly explained by the respondents. It is the bounden duty of the authority concerned to furnish the findings and opinion of the Court of Inquiry before awarding punishment, if any to the delinquent so as to enable the delinquent to make a representation. The petitioner has been denied in perusing the findings and opinion of the Court of Inquiry.

[27] Since the petitioner mainly questioned the validity of the impugned order contending *inter alia* that non-supply of findings and opinion of the Court of Inquiry would vitiate the impugned order, this Court is of the view that the

non-supply of findings and opinion of the Court of Inquiry to the petitioner is fatal to the case of the respondents in the given facts and circumstances of the case. The competent authority of the Assam Rifles has to provide all the relevant materials on the basis whereof the impugned order of imposing penalty of censure was issued. Therefore, the non-supply of the relevant materials to the petitioner is deprived his rights of opportunity to know the adverse materials against the petitioner.

[28] At this juncture, learned senior counsel for the petitioner submitted that Rule 187 of the Assam Rifles Rules, 2010 clearly provides that the opinion of Court of Inquiry can be supplied with the permission of the Director General. However, the same was conveniently overlooked and thus the adverse action taken against the petitioner was exercise of arbitrary power in malafide.

[29] It is pertinent to quote Rule 187 of the Assam Rifles Rules, 2010, which reads as under:

“187. Copies of court of inquiry proceedings. – A person subject to the Act against whom the court of inquiry has given an opinion or who is being tried by a Force Court on a charge relating to matter investigated by the court of inquiry, shall be entitled to copies of the proceedings of the court of inquiry, except the findings and

opinion thereon, unless the Director-General for reasons recorded by him orders otherwise.”

[30] Thus, as rightly argued by learned senior counsel for the petitioner, with the permission of Director General Assam Rifles, the competent authority can supply the findings and opinion of the Court of Inquiry to the petitioner. However, there is no proper explanation from the side of the respondents for non-supply of the findings and opinion of the Court of Inquiry to the petitioner. Therefore, the arguments of learned counsel for the respondents that the petitioner is interpreting the Rule to his convenience and thus misleading the Court and also according to the existing Rules, it is not mandatory to serve the copy of findings and opinion of the Court of Inquiry to the petitioner and thus the action of the respondent authorities is not arbitrary, whimsical and malafide, cannot be countenanced.

[31] In the instant case, the petitioner was subjected to inquiry before the Court of Inquiry for the reason that he had complained directly to the Home Minister, Chief of Army Staff, Home Secretary, Ministry of Home Affairs and Directorate General Assam Rifles qua anomalies in selection of Assam Rifles Cadre Officers for UN Mission (Haiti), particularly complaint against Col Vijay

Chahar. The Court of Inquiry came to the conclusion that the petitioner was making false and baseless allegations against Col Vijay Chahar that he had received bribe during the selection process. When that being the findings and opinion of the Court of Inquiry, as stated supra, in the given facts and circumstances of the case on hand, it is the duty of the Court of Inquiry to supply the said findings and opinion to the petitioner so as to enable him to reply. Therefore, this Court is of the view that the impugned order is vitiated on the ground of non-supply of the very decision arrived at by the Court of Inquiry for imposing penalty of censure on the petitioner. The petitioner also explained the prejudice caused to him for the non-supply of findings and opinion of the Court of Inquiry and this Court is satisfied on the same.

[32] The next ground taken by the petitioner to set aside the impugned order is that the Presiding Officer and the Members of the Staff Court of Inquiry and Col Vijay Chahar against whom complaint was made all are very close friends and were from the same regiment i.e. RAJ RIF of Indian Army served together. In the complaint dated 1.6.2016, the petitioner has stated as under:

“3. It is expected that the undersigned has been deprived of his fundamental right upgradation from reserve category to selection for UN Mission at Haiti, intentionally by Col Vijay Chahar, Colonel

(Military Secretary), HQ DGAR in reciprocation of the undersigned whistle blower against corruption in Assam Rifles where Colonel Vijay Chahar, Colonel Secretary) HQ DGAR played vital role to save the corrupt officials of HQ 21 Sector Assam. In this connection please refer my letter No.1.22022/ODS/2016/002 dated 21 Mar 2016. Involvement of bribe in this scam also cannot be ruled out.”

[33] The allegation of the petitioner that the Presiding Officer and the Members of the Court of Inquiry and Col Vijay Chahar are close friends and were from the same regiment has not been specifically denied by the respondents in their affidavit-in-opposition. On the other hand, in their affidavit-in-opposition, the respondents stated that based on the complaint, a Staff Court of Inquiry headed by a Deputy Inspector General level officer was convened by the Directorate to investigate into the allegations made by the petitioner. The Staff Court of Inquiry has been completed, the Court has established that there is no proof/evidence on the use of influence/bribe on Part of Colonel Vijay Chahar, then Colonel (MS), Headquarters Directorate General Assam Rifles. Since there was no denial on the same regiment and friendship of Col Vijay Chahar and the Presiding Officer and the Members of Court of Inquiry, it is to be presumed that the allegation of the petitioner that the Presiding Officer and

the Members of the Court of Inquiry and the officer whom against the complaint was lodged namely Col Vijay Chahar are close friends and were from the same regiment as pleaded by the petitioner is correct.

[34] It appears that the petitioner was subjected to inquiry mainly on the ground that he used wrong channels of correspondence for forwarding his complaint directly to the Home Minister, Home Secretary and Chief of Army Staff with a copy to the Director General Assam Rifles. According to the respondents, the petitioner did not use available open forum and other channels of communication with the DG AR to highlight his perceived grievance against the selection process for selection of Assam Rifles Cadre Officers for UN Mission at Haiti (7th Contingent).

[35] The inquiry was completed and the petitioner was awarded punishment of censure. As held supra, the impugned censure order was vitiated on the ground of non-supply of the decision and finding of the Court of Inquiry. Taking into consideration of the allegation made by the petitioner against the Presiding Officer and the Members of the Court of Inquiry that they are close friends to Col Vijay Chahar, this Court is of the view that the entire inquiry proceedings of the Court of Inquiry is very doubtful and the same cannot

be endorsed. That apart, the respondents have failed to establish that the inquiry was conducted in a fair manner without any bias or influence from any kind. Normally, an employee of the disciplined service may not lodge complaint against the higher officials. Since in the instant case the complaint is against the then officer Col Vijay Chahar, it is the bounden duty of the respondent authorities to establish that there was no collusion between the Court of Inquiry and the so called officer Col Vijay Chahar.

[36] It appears that on 22.8.2016, the petitioner submitted an application to the HQ DGAR seeking to cancel the Court of Inquiry and constitute a fresh Court of Inquiry and include all the allegations of corruption and wrong doings by the officers and personnel of Assam Rifles. The said application of the petitioner dated 22.8.2016 has not been properly considered by the respondent authorities. Since this Court doubting the entire inquiry proceedings of the Court of Inquiry, the impugned censure order issued by the DG AR is unsustainable in the eye of law.

[37] In the instant writ petition, the petitioner seeks to set aside the impugned censure order dated 1.5.2017, coupled with an interim prayer to restrain the respondents from curtailing the petitioner's entitled promotional

rights on the basis of the impugned censure order during the pendency of the writ petition.

[38] This Court held that the impugned order is vitiated on the ground of non-supply of the decision and opinion of the Court of Inquiry and also there was influence by the Court of Inquiry with the officer complained and therefore, the impugned order dated 1.5.2017 is unsustainable in the eye of law. As far as the prayer of the petitioner from curtailing the petitioner's entitled promotional right on the basis of the censure order is concerned, it is upto the decision of the respondent authorities to consider the case of the petitioner. Since the petitioner was already kept in reserve category in the selection process for deployment in UN Mission at Haiti (7th Contingent) and by this order the impugned censure order imposed on the petitioner is set aside, the respondent authorities may consider the candidature of the petitioner for deployment in UN Mission at Haiti in accordance with law. Furthermore, on a careful scrutiny of the order impugned, this Court finds that while issuing the impugned order, the DG AR has failed to quote the provision under which the impugned order was issued.

[39] For the foregoing discussions, the impugned order dated 1.5.2017 is not sustainable in the eye of law and the same is liable to be quashed. Accordingly, the writ petition is allowed and the impugned order dated 1.5.2017 issued by the DG AR is set aside.

[40] No costs.

JUDGE

FR/NFR

John Kom