

**IN THE ARMED FORCES TRIBUNAL  
REGIONAL BENCH, GUWAHATI.**

**O.A. No. 08/2016**

**PRESENT**

**HON`BLE MR. JUSTICE B.P.KATAKEY, OFFICIATING CHAIRPERSON  
HON`BLE LT GEN SANJIV LANGER, MEMBER (A)**

**No. 15425808W Hav P Surendra**  
371 Field Hospital  
C/o 99 APO

.....Applicant.  
By legal practitioners for  
Applicant.  
**Mr. Diganta Gogoi,**  
**Mrs. Simi Das,**  
**Ms Monjula Baruah**

**-Versus-**

- 1. Union of India,**  
represented by the Secretary  
Ministry of Defence, South Block  
New Delhi-110011
- 2. Chief of Army Staff**  
South Block, IHQ of MoD (Army)  
New Delhi-110001
- 3. Director General of Armed Forces**  
Medical Services, 'M' Block  
Parliament Street, New Delhi-110001
- 4. Army Medical Corps Record Office**  
PIN-900450, C/o 56 APO
- 5. 48 FHO**  
C/o 56 APO

.....Respondents  
By legal practitioners for  
Respondents.  
**Mr. N. Baruah, CGSC.**

Date of hearing : 14.12.2016

Date of order : 14.12.2016

**ORDER**  
**(ORAL)**

*(Per B.P. Katakey, Officiating Chairperson)*

1. Heard Mr. Diganta Gogoi, learned counsel appearing for the applicant and Mr. N. Baruah, learned CGSC assisted by Col Anand, OIC, Legal Cell, AFT, Guwahati appearing for the respondents.
  
2. The applicant, who is presently serving in the rank of Havildar, has filed this OA challenging the CR for the period 01.07.2011 to 12.11.2011 and also the communication dated 12.10.2015 whereby and whereunder, the applicant has been informed about rejection of his statutory complaint, contending inter-alia that since the procedure required to be followed in writing the CR and also the communication of the adverse entry has not been followed, the said CR needs to be interfered with, more so, when the same come in the way of the applicant's promotion from the LNK to Havildar. It is also contended that though one similarly placed person namely No. 13988659P (Ambulance Assistant) Gopal Singh has been granted the relief by setting aside the CR for the similar period and on the same ground as taken by the applicant, there is no reason as to why the statutory complaint filed by the applicant should not be allowed by setting aside the CR for the aforesaid period.
  
3. Mr. Gogoi, learned counsel for the applicant referring to the averments made and also the order dated 28.10.2013 passed by the GOC-in-C, Northern Command, in so far as the Naik Gopal Singh is concerned, has submitted that the applicant has

been differently treated though similarly placed with that of Naik Gopal Singh. It has also been submitted that the statutory complaint filed by the applicant has been rejected despite the fact that the Army Order for the purpose of initiating the CR for the aforesaid period has not been followed.

4. Mr. N. Baruah, learned CGSC appearing for the respondents on the other hand submitted that the applicant's statutory complaint has never been recommended for acceptance by any of the authorities, which has ultimately been rejected by the COAS and communicated vide the aforesaid communication dated 12.10.2015. It has also been submitted that the applicant and Naik Gopal Singh are not similarly placed, though the I.O. was the similar and the period for the CR in question is also similar. According to the learned counsel for the respondents no interference is, therefore, called for to the rejection of the statutory complaint by the competent authority.

5. It appears from the record and it is not in dispute that the statutory complaint filed by Naik Gopal Singh has been accepted by the GOC-in-C, Northern Command. The CR for the period in question was from 01.07.2011 to 12.11.2011 as in the case of the applicant and was initiated by the same I.O. It also appears from the pleadings in the OA and the contents of the aforesaid order dated 28.10.2013 that the grievance of the applicant also appears to be of similar nature, which has not been taken into consideration by the COAS before rejecting the statutory complaint filed by the applicant as the same was not placed before the said authority, while considering the statutory complaint filed by the applicant.

6. That being the position, we are of the considered opinion that the statutory complaint filed by the applicant needs to be re-looked by the COAS having regard to the aforesaid order dated 28.10.2013 passed by the GOC-in-C, Northern Command and to

pass a speaking order in this regard within a period of 04 months from the date of receipt of the copy of this order. Needless to say that if the applicant has any grievance against the order that to be passed, it is open to him to approach the appropriate forum ventilating his grievance.

7. Ordered accordingly. OA stands disposed of.
8. No costs.
9. Let a copy of this order be served upon both the parties.

**MEMBER (A)**

**OFFICIATING CHAIRPERSON**

*Kalita*