

PART 5

Chapter 3

PROFESSIONAL RESPONSIBILITIES OF CERTAIN SENIOR ARMY COMMANDERS

In Chapters 1, 2 and 5 of Part 5 of the main report we have dealt with the moral and disciplinary aspects of the events and causes leading to the defeat of the Pakistan Army in the 1971 war, and have also touched upon the individual responsibility of certain senior officers. In the preceding two chapters of the Supplementary Report, we have offered further observations on these aspects and have commented upon the conduct of certain Army Officers posted in East Pakistan. There, however, still remains the question of determining whether any disciplinary action is called for against certain senior army commanders for their failings in the discharge of their professional duties in the conduct and prosecution of the war in East Pakistan.

Nature of Disciplinary Action

2. In view of the glaring weaknesses and negligence displayed by some of the senior officers operating in East Pakistan, we have anxiously considered the nature of the disciplinary action required in the case. We find that there are several provisions in the Pakistan Army Act 1952 having a direct bearing on this matter. In the first place, there is section 24 which is in the following terms: "24 Offences in relation to enemy and punishable with death. Any person to this Act who commits any of the following offences, that is to say,—

(a) Shamefully abandons or delivers up any garrison, fortress, airfield, place, post or guard committed to his charge or which it is his duty to defend, or uses any means to compel or induce any commanding officer or any other person to do any of the said acts; or
(b) in the presence of any enemy, shamefully casts away his arms, ammunition, tools or equipment, or misbehaves in such manner as to show cowardice; or
(c) intentionally uses word or any other means to compel or induce any person subject to this Act, or to the Indian Air Force Act, 1932 (XIV of 1932) or Pakistan Air Force Act 1953 or to the Pakistan Navy Ordinance, 1961, or abstain from acting against the enemy or to discourage such persons from acting against the enemy; or
(d) directly or indirectly, treacherously holds correspondence with or communicates intelligence to, the enemy or who coming to the knowledge of such correspondence or communication treacherously omits to discover it to his commanding or other superior officer; or
(e) directly or indirectly assists or relies the enemy with arm, ammunition, equipment, supplies or money or knowingly harbours or protects an enemy not being a prisoner; or
(f) treacherously or through cowardice sends a flag of truce to the enemy; or
(g) in time of war, or during any operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or
(h) in time of action, leaves his commanding officer, or quits his post, guard, piquet, patrol or party without being regularly relieved or without leave; or
(i) having being made a prisoner of war, voluntarily serves with or aids the enemy; or
(j) knowingly does when on active service any act calculated to imperil success of the Pakistan forces or any forces-operating therewith or of any part of such forces' shall, on conviction by court martial, be punished with death or with such less punishment as it is in this Act mentioned".

3. Section 25 is also relevant, and reads as under:

"25 Offences in relation to the enemy and not punishable with death. Any person subject to this Act who, on active service,—

(a) without order from his superior officer leaves the ranks in order to secure prisoner, animals or materials, or on the pretence of taking wounded men to the rear; or
(b) without orders from his superior officer, wilfully destroys or damages any property; or
(c) is taken prisoner for want of due precaution or through disobedience of orders or wilful neglect of duty, or, having been taken prisoner, fails to rejoin service when he is able to do so; or
(d) without due authority, either holds correspondence with, or communicates intelligence, or sends a flag of truce to the enemy; or
(e) by words of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create alarm or despondency; or
(f) in action, or previously to going into action, uses words calculated to create alarm or despondency; shall on conviction by court martial, be punished with rigorous imprisonment for a term which may extend to fourteen years, or with much less punishment as is in this Act mentioned”.

4. Finally, there is section 55 which is of a general nature, and provides:

“55. Violation of good order and discipline—Any person subject to this Act who is guilty of any act, conduct, disorder and of military discipline shall, on conviction by court martial, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned”

5. We are fully cognizant of the fact that defeat in war, even entailing surrender, is not necessarily punishable as a military offence unless it has been occasioned by wilful neglect of the Commander concerned in the performance of his duties in respect of the appreciation of the situation regarding the enemy’s intention, strength, own resources, terrain, etc; or in the planning and conduct of the operations; or a wilful failure to take action as required under the circumstances. A callous disregard of the recognised techniques and principles of warfare would clearly amount to culpable negligence, and could not be excused as an honest error of judgement. A deliberate failure to adopt the proper course of action to meet a certain contingency cannot be covered by taking shelter behind the plea that his superiors did not advise him properly in time. It further appears to us that every Commander must be presumed to possess the calibre and quality, appurtenant to his rank, and he must per force bear full responsibility for all the acts of omission and commission, leading to his defeat in war, which are clearly attributable to culpable negligence on his part to take the right action at the right time, as distinguished from or circumstances beyond his control. He would also be liable to be punished if he shows a lack of will to fight and surrender to the enemy at a juncture when he still had the resources and the capability to put up resistance. Such an act would appear to fall clearly under clause (a) of section 24 of the Pakistan Army Act.

Need and Justification for Trial and Punishment

6. Having heard the views of a large number of witnesses drawn from all sections of society, professions and services, the Commission feels that there is consensus on the imperative need to book these senior army commanders who have brought disgrace and defeat to Pakistan by their professional incompetence, culpable negligence and wilful neglect in the performance of their duties, and physical and moral cowardice in abandoning the fight when they had the capability and resources to resist the enemy. We are also of the view that proper and firm disciplinary action, and not merely retirement from service, is necessary to ensure against any future recurrence of the kind of shameful conduct displayed during the 1971 war. We believe that such action would not only satisfy the nations demand for punishment where it is deserved, but would also serve to emphasise the concept of professional accountability which appears to have been forgotten by senior army officers since their involvement in politics, civil administration and Martial Law duties.

Cases Requiring Action by Way of Court Martial

7. In Part III of the present report, we have discussed and analysed at some length the concept of defence of East Pakistan adopted by Lt. Gen Niazi, and the manner in which he and his Divisional and Brigade Commanders formulated their plans to implement that concept within the resources

available to them in East Pakistan. We have then narrated the important events involving the surrender of well-defended strong points and fortresses without a fight, desertion of his area of responsibility by a Divisional Commander, disintegration of brigades and battalions in frantic and foolish efforts to withdraw from certain posts, and abandoning of the wounded and the sick in callous disregard of all human and military values. We have also seen how the Eastern Command had failed to plan for an all out war with India and particularly to provide for the defence of Dacca which had been described as the political and military lynch-pin of East Pakistan. We have also described the painful events leading to the ultimate surrender of such a large body of men and materials to the Indian Army at juncture when, by all accounts, the Pakistan Army was still able to put up resistance for anything up to two weeks or more. In this context we have also taken note of the inexplicable orders issued by the Eastern Command to stop the destruction of war before the surrender, and the abject and shameful attitude adopted by the Commander, Eastern Command, at various stages of the surrender ceremonies in the presence of the Indian Generals. Finally, we have observed that during his period of captivity at Jabbalpur (India) Lt General Niazi made efforts to persuade, by threats and inducements, his subordinate Commanders to present a coordinated story so as to mitigate his responsibility for the debate.

8. Judged in the light of this analysis of the events leading to the surrender of our Army in East Pakistan, and the relevant provisions of the Pakistan Army Act and the considerations thereto, as outlined in the preceding paragraphs, we are of the considered opinion that the following senior officers ought to be tried by court martial on the charges listed against them , and we recommend accordingly.

(1) Lt Gen A.A.K. Niazi, Commander, Eastern Command

(i) That he wilfully failed to appreciate the imminence of all-out war with India, inspite of all indications to the contrary, namely the declarations of the Indian Prime Minister and other important Government leaders, the signing of the Indo-Soviet treaty in August, 1971, the amassing of eight divisions of the Indian Army, eleven squadrons of the Indian Air Force, and a large task force of the Indian Navy in and around East Pakistan , and the clear warning given to him by the GHQ on the basis of reliable intelligence regarding Indian plans of invasion of East Pakistan, with the consequence that he continued to deploy his troops in a forward posture although that deployment had become entirely unsuited for defence against open Indian aggression;

(ii) That he displayed utter lack of professional competence, initiative and foresight, expected of an Army Commander of his rank, seniority and experience, in not realising that the parts of his mission concerning anti-insurgency operations and ensuring that “no chunk of territory” was to be allowed to be taken over by the rebels for establishing Bangladesh, had become irrelevant in the context of the imminence of all-out attack by India on or about the 21st of November ,1971, and that the most important part of his mission from that juncture onwards was to “defend East Pakistan against external aggression” and “keep the Corps in being and ensure the entity of East Pakistan” with the result that he failed to concentrate his forces in time , which failure later led to fatal results;

(iii) That he displayed culpable negligence in adopting the concept of fortresses and strong points without fully understanding its technical implications as regards their ability to lend mutual support, availability of the necessary reserves to strike at the enemy in the event of his by passing any of the fortresses or overwhelming them with superior numbers , and the existence of a non-hostile population, with the disastrous consequence that was forced to surrender even though several of the fortresses and strong points were still intact on the 16th of December, 1971;

(iv) That he was guilty of criminal negligence in not including in his operational instruction No. 4 of 1971, issued on the 15th of July, 1971, any clear directive for a planned withdrawal of forces behind ?? river obstacles to face the Indian onslaught and to defend what may be described as the Dacca Triangle for the purpose of keeping East Pakistan in being by giving up non-vital territory;

(v) That he in fact showed wilful neglect and culpable negligence of the worst order in failing to make any positive plan for the defence of Dacca;

(vi) That he displayed lack of generalship and mature judgement in requiring his subordinate commanders to simultaneously maintain a forward defence posture, occupy unmanned fortresses,

and yet not withdraw from any position without sustaining 75% casualties and obtaining clearance from two-up, a variation from the norm of one-up, with the result that several formation commanders felt confused and bewildered and acted in a manner prejudicial to the sound conduct of operations and resulting in unnecessary casualties, as well as disorder and chaos arising from haphazard and unplanned withdrawals under pressure from the enemy;

(vii) That he displayed culpable negligence and wilful disregard of established principles of warfare by denuding Dacca of all regular troops by moving out 53 Brigade, which had been previously held as Corps reserve, on the expectation that he would be getting more troops as agreed to by GHQ on the 19th of November, 1971;

(viii) That he was guilty of criminal negligence in not ensuring beforehand satisfactory arrangements for transport, ferries, etc., with the result that even his last minute desperate efforts to withdraw troops from forward positions for the defence of Dacca were unsuccessful, and whatever troops did manage to reach Dacca did so minus their heavy equipment, besides suffering unnecessary casualties en route.

(ix) That he wilfully failed to defend Dacca, and agreed to a shameful and premature surrender in spite of his own assertion before the Commission that Indians would have required at least a period of seven days to mount the offensive and another week to reduce the defences of Dacca, notwithstanding the shortcomings of his concept and plans, inadequacies and handicaps in respect of men and materials as compared to the enemy, the absence of air support and the presence of Mukti Bahini in and around Dacca.

(x) That he deliberately and wilfully sent unduly pessimistic and alarming reports to GHQ with a view to eliciting permission to surrender as he had lost the will to fight as early as the 6th or 7th of December, 1971, owing to his own mismanagement of the entire of war and his inability to influence, inspire and guide the subordinate Commanders;

(xi) That he wilfully, and for motives and reasons difficult to understand and appreciate, stopped the implementation of denial plans, with the result that large quantities of valuable war materials were handed over intact to the Indian forces after surrender, in spite of the fact that GHQ had specifically ordered by their Signal of the 10th December, 1971 to carry out denial plans;

(xii) That he displayed a shameful and abject attitude in agreeing to surrender when he had himself offered a ceasefire to the Indian Commander-in-Chief; in signing the surrender document agreeing to lay down arms to the joint command of the Indian forces and the Mukti Bahini; in being present at the Dacca Airport to receive the victorious Indian General Arora; in ordering his own ADC to present a guard of honour to the said General; and in accepting the Indian proposal for a public surrender ceremony which brought everlasting shame to the Pakistan Army.

(xiii) That he was guilty of conduct unbecoming a Officer and Commander of his rank and seniority in that he acquired a notorious reputation for sexual immorality and indulgence in the smuggling of Pan from East to West Pakistan, with the inevitable consequence that he failed to inspire respect and confidence in the mind of his subordinates impaired his qualities of leadership and determination, and also encouraged laxity in discipline and moral standards among the officers and men under his command;

(xiv) That during the period of his captivity as a prisoner of war in Jabbalpur (India) and on repatriation to the Pakistan he made efforts to subvert the truth by trying to exercise undue influence on his Divisional and Brigade Commanders by offering them threats and inducements, so as to persuade them to present before the GHQ Briefing Committee and the Commission of Inquiry, a coordinated and coloured version of the events in East Pakistan for the purpose of mitigating his own responsibility for the defeat; and

(xv) That, on repatriation to Pakistan, he deliberately adopted a false and dishonest stand to the effect that he was willing and able to fight but was ordered to surrender by General Yahya Khan, and that as a dutiful soldier he had no option but to obey the said order against his best judgement.

2. Maj Gen Mohammad Jamshed, ex-JOC 36 (ad hoc) Division, Dacca

- (i) That having been appointed as GOC 36 (ad hoc) Division for the express purpose of taking over from 14 Div., major responsibility for the defence of Dacca, he wilfully failed to plan for the same, in accordance with sound principles of warfare, and showed culpable lack of initiative in this behalf;
- (ii) That in the aforesaid capacity he wilfully neglected to point out to Lt Gen Niazi, during various conference, the inadequacy of the resources at his disposal for the defence of Dacca, pointing out after the 19th of Nov, 1971, when 53 Brigade was sent out of Dacca to Feni;
- (iii) That he displayed gross neglect in ordering the abrupt withdrawal of 93 Brigade from Jamalpur to Dacca without planning for it, well knowing that it was defending Dacca by holding that fortress, and in consequence of this ill-planned move 93 Brigade got completely disintegrated enroute owing to the capture by the enemy of the Brigade Commander and a considerable portion of the Brigade;
- (iv) That he showed complete lack of courage and will to fight in that he acquiesced in the decision of the Commander, Eastern Command, to surrender to the Indian forces at a juncture when it was still possible, in spite of the paucity of resources, to hold the enemy for a period of two weeks or so;
- (v) That he deliberately and wilfully neglected to inform the authorities concerned, on his repatriation to Pakistan, about the facts that he had got distributed Rs 50,000 out of Pakistan currency notes and other funds at his disposal or under his control, amongst certain evacuated from Dacca on the morning of December, 1971, and the manner in which he did so.

3. Maj Gen M. Rahim Khan, ex-GOC 39 (ad hoc) Division

(a) In Paragraphs 9 to 11 of Chapter III of Part V of the Main Report, we had occasion to comment upon the conduct of Maj Gen Rahim Khan, GOC 39 (ad hoc) Division, who abandoned his Division, and evacuated his Divisional HQ from Chandpur, of course, with the permission of the Commander, Eastern Command, with no replacement, and with the consequence that his Division disintegrated and had to be replaced with another Headquarter called the Narayan Sector Headquarter under a Brigadier. We had then recounted that the conduct of Maj Gen Rahim Khan in abandoning his troops and shifting to a place outside his area of responsibility prima facie called for a proper inquiry to determine whether the General was guilty of dereliction of duty or/and cowardice. We also added some other points which needed to be looked into in this behalf.

(b) As Maj Gen Rahim Khan was one of the senior officers serving in East Pakistan during the war, he voluntarily appeared before the Commission during the present session, primarily for the purpose of clearing his position. As will be seen from a detailed discussion of the operation of the 39 (ad hoc) Division in the narration of the military events, the Commission is far from satisfied with the performance of this General Officer. In the light of the information now available we now consider that he should be tried by a court martial on the following charges:

- (i) That he shameful cowardice and undue regard for his personal safety in seeking, and obtaining, permission from the Eastern Command to abandon his Division and vacate his Divisional Headquarters from Chandpur on the 8th of December 1971, simply because Chandpur was threatened by the enemy, with the result that he deserted his troops and his area of responsibility in the middle of the war with India;
- (ii) That by his wilful insistence on moving by day against competent advice, owing to fear of Mukti Bahini, caused the death of fourteen Naval ratings and four officers of his own HQ, besides injuries to several others, and to himself due to strafing by Indian aircraft;
- (iii) That in his anxiety to get away from Chandpur, he wilfully abandoned valuable signal equipment with the result that the communication system of the Division disintegrated and his subordinate commanders and troops were left to their own fate;
- (iv) That he on the 12th of December, 1971, by word of mouth,, caused alarm and despondency by General Niazi, Jamshed and Farman Ali that "it is all over, let us call it a day" and that the Mukti Bahini might resort to massacre'
- (v) That he wilfully avoided submitting a debriefing report to GHQ, on being specially evacuated to Pakistan in early 1971, so as to conceal the circumstances of his desertion from his Div HQ at Chandpur with the consequence that the authorities were persuaded to appoint him as Chief of the General Staff without any knowledge of his performance in East Pakistan.

4. Brig. G.M. Baqir Siddiqui, former COS, Eastern Command, Dacca

- (i) That as Chief of Staff, Eastern Command, he was guilty of wilful neglect in failing to advise the Commander, Eastern Command, on sound professional lines in regard to the matters mentioned in charges (i) to (ix) framed against Lt. Gen Niazi;
- (i) That he wilfully collaborated with, and assisted, the Commander, Eastern Command, in sending unduly pessimistic and alarming reports and signals to GHQ with a view to elicit permission to surrender, as he had also lost the will to fight owing to his culpable negligence and failure in the performance of his professional duties as the Chief of Staff of the Eastern Command;
- (iii) That he showed culpable disregard of sound principles of planning for the war in that he excluded the Commanders of the supporting arms like signals, engineers, logistics, medical, etc. from full participation before the plans of the Eastern Command were finalized, with the result that the full benefit of the advice of these Commanders was not available to Lt Gen Niazi at the proper time;
- (iv) That he was guilty of culpable negligence in not properly advising the Commander, Eastern Command, of the imminence and enormity of the Indian threat even though he had been fully briefed in this behalf by the GHQ at a conference in Rawalpindi in October 1971, and he also similarly failed to advise the Commander on the imperative need of readjusting troops to meet this threat;
- (v) That he was responsible for abrupt changes in command in the middle of the war, and also for giving orders to subordinate formations over the head of their superior commanders, thus resulting in uncertainty and confusion during the critical days of the war;
- (vi) That he wilfully, and for motives and reasons difficult to understand and appreciate stopped the implementation of denial plans with the result that large quantities of valuable war materials were handed over intact to the Indian forces after the surrender, in spite of the fact the GHQ had specifically ordered by their of the 10th December 1971 to carry out denial plans;
- (vii) That in particular, he instructed the commander Signals to keep the inter-wing transmitter in operation even after the surrender, apparently for the purpose of conveying recommendations to GHQ for the grant of gallantry awards etc. with the result that this valuable equipment fell intact into the hands of the enemy;
- (ix) That he was unduly friendly with the enemy during the period of his captivity, so much so that he was allowed to go out shopping in Calcutta, a facility not allowed to anyone else by the Indians;
- (x) that he acted against good order and the custom of the Service in being instrumental in conveying threats and inducements to formation commanders for the purpose of presenting a coordinated story before the GHQ and the Commission of Inquiry in regard to the events leading to surrender in East Pakistan.

5. Brig Mohammad Hayat, former Comd. 107 bde. (9 Div)

- (i) That as Commander 107 Bde., he displayed neglect in not formulating a sound plan for the defence of the fortress of Jessore;
- (ii) That while launching counter attack at Gharibpur he neglected to obtain full information about the enemy strength, and did not himself command this important Brigade counter attack, in consequence whereof he lost seven tanks, his en suffered heavy casualties, and the defence of Jessore fortress was seriously jeopardised;
- (iii) That on a report that enemy tanks had broken through the defences of Jessore he, without even verifying the same, shamefully abandoned the fortress of Jessore without a fight on the 6th of December 1971, delivering intact to the enemy all supplies and ammunition dumps stocked in the fortress, and without issuing any orders to his unit in contact with the enemy, who had to fight their own way during the following night.
- (iv) That after abandoning Jessore without contact with the enemy, he withdrew to khulna in wilful and intentional violation of the clear orders of G.Q.C. 9 Division to withdraw to Magura in the event of a forced withdrawal fro Jessore, thus making it impossible for the Divisional Commander to give battle to the enemy across the Madhumati River.

6. Brig. Mohammad Asla Niazi, former Cod., 53 Bde (39Ad hoc Div.)

- (I) That as Commander 53 Bde. he displayed culpable lack of initiative, determination and planning ability in that he failed to prepared defences of Mudafarganj as ordered by the G.O.C. 39 (As hoc) Division on the 4th of December 1971, with the result that the place was occupied by the enemy on or about the 6th of December 1971, thus seriously endangering the line of communication between Tripura and Chandpur where the Divisional Headquarters was located;
- (ii) That he showed culpable lack of courage, planning ability and determination in failing to eject the enemy fro Mudafarganj as ordered by the GOC on the 6th of December 1971, with the result that contingents of 23 Punjab and elements of 21 A.K. surrendered to an Indian unit on the 11th of December 1971 in highly adverse circumstances, without water or food and the ammuniton having been nearly exhausted;
- (iii) That he shamefully abandoned the Fortress of Laksham on or about the 9th of December 1971, which it was his duty to defend;
- (iv) That he displayed wilful neglect in failing to properly organize ex-filtration of his troops fro the fortress at Laksha to Comilla on the 9th of December 1971, with the result that out of a strength of about 4000 men only about 500 or so, including the Brigade Commander himself and C.O. 39 Baluch with approximately 400 men surrendered to the enemy when he was barely three miles outside Comilla, and as a consequence 53 Bde and all its battalions thus disintegrated;
- (v) That he wilfully acted in callous disregard of military ethics in abandoning at Laksha 124 sick and wounded with two Medical Officers who were deliberately not informed about the proposed vacation of the fortress; and
- (vi) That while vacating the fortress of laksha he wilfully and intentionally abandoned all heavy weapons, stocks of ammuniton and supplies for the use of the enemy, without implementing the denial plan;

8.Cases Requiring Departmental Action

(1) Brig. S.A. Ansari, ex-Comd, 23 Bde, (Div)--This officer assumed command of 23 Bde on the 14th of November 1971 and was responsible for the civil districts of Rangpur and Denajpur, except the small area of Hilli which was under the control of 205 Bde. Right from the beginning he seems to have been losing ground, starting with the loss of Bhurungamari which was attacked by the Indians on the 14th or 15th of November 1971. His troops then lost the important position of Pachagarh mainly owing to Brig. Ansari's inability to readjust his position. He then *abandoned* Thakargaon between 28th and 30th of November 1971 without offering any resistance to the enemy. As a result of these reverses he was relieved of his command on the 3rd of December 1971. His Divisional Commander, Maj. Gen. Nazar Hussain Shah formed a poor opinion of his performance in battle and we have no hesitation in endorsing the same fro evidence coming before us. We are of the view that he did not display qualities of courage, leadership and determination. The Commission feels that this Officer is not fit for further retention in service.

(2) Brig. Manzoor Ahmad, ex-Comd 57 Bde (9 Div)--his Officer did not conduct the battle with sufficient grip and caused the loss of fortress of Jhenida without a fight, owing to his inability to clear an enemy block at Kot Chandpur. Then, contrary to the Divisional concept and without orders he withdrew his Brigade out of the Divisional area and had to be placed under 16 Division. He became detached from his main Headquarters and remained so till the end. He could therefore make no contribution to the war and his performance created the impression that he was shaky in battle. He does not appear to be fit for further retention in service.

(3) Brig. Abdul Qadir Khan, ex-Comd, 93 Bde. (36 Div)--The work and the conduct of Brig. Abdul Qadir Khan has come to the notice of the Commission in two capacities, namely as the President of the Inter-Services Screening Committee at Dacca and later as Commander of 93 (Ad hoc) Brigade under 36 Division. In the former capacity, he was responsible for the screening of military and civilian personnel as well as non-officials who had either defected during the Awami League movement or had otherwise come to adverse notice. Allegations were made that some persons in

his custody were eliminated without trial, or even without any ostensible cause. However, the allegations were not substantiated so as to fix personal responsibility on hi.

As Commander 93 (Ad hoc) Brigade, he was captured by the Indians while withdrawing to Dacca from Myensingh under the orders of Eastern Command.

He seems to have reached his ceiling and the Commission formed the impression that his further retention in service would not be in the public interest. We were informed by the GHQ representative that the Officer had since been retired.

Performance of Other Senior Officers

9. Besides Lt Gen. A.A.K. Niazi, Maj Gen. Mohammad Jamshed, and Maj Gen M Rahim Khan, with whose cases we have already dealt in the preceding paragraphs, there were four other General Officers serving in the East Pakistan at the time of the surrender, namely, Maj Gen M.H. Ansari, GOC 9 Div., Maj Gen Qazi Abdul Majid, GOC 14 Div., Maj Gen Nazar Hussain Shah, GOC 16 Div., and Maj Gen Rao Farman Ali, Adviser to the Governor of East Pakistan. Similarly, besides the Brigadiers, whom we have noticed in the preceding paragraphs, there were 19 other Brigadiers serving in various capacities as Brigade Commanders or Commanders of technical arms. Finally, there was a Rear Admiral of the Navy supported by three Commanders and one Air Commodore commanding the PAF in East Pakistan.

10. While we shall deal with the case of Maj Gen Rao Faran Ali separately, as he was not commanding any troops at the relevant time, we cannot help remarking that all the senior officers stationed in East Pakistan immediately before and during the war of 1971 must be held collectively responsible for the failings and weaknesses which led to the defeat of the Pakistan Army. However, while assessing their individual responsibility, the Commission was obliged to take note of the limitations imposed on them by the concepts and attitudes adopted by the Eastern Command, the admitted shortages and deficiencies in men and materials, faced by them as compared to the vast resources of the enemy and the general demoralisation which stemmed from the culpable acts of commission and omission on the part of the Army High Command at Rawalpindi and the Commander Eastern Command, at Dacca. Finally, there was also the unfortunate over-riding factor of a long and inherited tradition of unquestioned obedience and loyalty to the superior commander, which prevented most of these officers from questioning the soundness of the critical decisions and actions taken by the High Command, including the final act of surrender. Apart from a few individuals, the large body of officers and men operating in East Pakistan accepted the final decision without any thought of disobedience, even though the majority of them were undoubtedly willing to fight to the last and lay down their lives for the glory of Pakistan.

11. Keeping in view these factors and circumstances we have examined the individual performance and conduct of these senior officers, as will be apparent from the relevant portions of the Main Report and this Supplement where we have narrated at some length the military events as they developed from day-to-day and we have come to the conclusion that adverse comment reflecting on their suitability for continued retention in military service would not be justified. We have also not thought it desirable to single out officers for special praise either, although it goes without saying that in several cases the officers did act with dedication and valour beyond the ordinary call of duty.

PERFORMANCE AND CONDUCT OF JUNIOR OFFICERS

12. In the very nature of things, the Commission was not in a position to examine at any length the conduct and performance of officers below the Brigade level although some cases necessarily came to our notice where the performance of these officers had a direct bearing on the fate of important battles which were fought on various fronts, or where their conduct transgressed the norms of moral discipline. Such cases have found mention in the relevant portions of our report, but by and large cases of these junior officers must be left to be dealt with by the respective Service Headquarters

who have ordained detailed briefing reports from all of them and are also in possession of their performance by their immediate superiors.

THE ROLE OF MAJ GEN FARMAN ALI

13. Before we conclude this Chapter, brief remarks about the role of Maj Gen Farman Ali would not be out of place, for the reason that he has been conspicuously mentioned in several contexts by the international press as well as by the Prime Minister of Bangladesh.

14. This officer remained in East Pakistan continuously from the 28th of February 1967 to the 16th of December 1971. He was Commander, Artillery 14 Div., in the rank of Brigadier from the 28th of February, 1967 to the 25th of March 1969. On the promulgation of Martial Law by General Yahya Khan on the 25th of March 1969 he was appointed as Brigadier(Civil Affairs) in the office of the Zonal Administrator of Martial Law. He was later promoted as Major General in the same post. From the 4th of July 1971 to the 3rd of September 1971 he functioned under the designation of Maj Gen (Political Affairs), and from the latter date to the 14th of December 1971 he worked as Adviser to the Governor of East Pakistan, ceasing to hold this appointment on the resignation of Dr. A.M.Malik.

15. It was inherent in the appointments held by him since the promulgation of General Yahya Khan's Martial Law on the 25th of March 1969 that Maj Gen Farman Ali should come into contact with civil officials and political leaders, besides being associated with Army Officers and Martial Law Administrators of various levels and grades. He was frankly admitted before the Commission that he was associated with the planning of the military action of the 25th of March 1971, and also with the subsequent political steps taken by the military regime to normalise the situation, including the proposed by-elections necessitated by the disqualification of a large number of Awami league members of the National and Provincial Assemblies. Nevertheless, as a result of our detailed study of the written statement, submitted by the General and the lengthy cross-examination to which we subjected him during his appearance before us, as well as the evidences from other witnesses from East Pakistan, we have formed the view that Maj Gen Farman Ali merely functioned as an intelligent, well-intentioned and sincere staff Officer in the various appointments held by him, and at no stage could he be regarded as being a member of the inner military junta surrounding and supporting General Yahya Khan. We have also found that at no stage did he advise, or himself indulge in, actions opposed to public morality, sound political sense or humanitarian considerations. In this context, we have already commented at some length, in a previous Chapter of this Report, on the allegation made by Sheikh Mujibur Rehman at General Farman Ali was wanting to "paint the green of East Pakistan red", and have found that the entire incident has been deliberately distorted.

16. During the critical days of the war this Officer had no direct responsibility for military operations, but he was, nevertheless, closely associated with the Governor of East Pakistan as well as the Commander Eastern Command. It was for this reason that he got involved in what has been called "the Farman Ali incident". As we have seen in the chapter dealing with the details of the surrender in East Pakistan, the message authenticated by Maj Gen Farman Ali for being dispatched to the United Nations on the 9th of December 1971 had been approved by the Governor of East Pakistan, who had obtained prior authority and clearance from the President of Pakistan, namely, General Yahya Khan, for the purpose of formulating proposals for a settlement and cessation of hostilities in East Pakistan. In these circumstances, the responsibility for its authorship and dispatch could not, therefore, be placed on this Officer. In fact, he had, at the time, demanded trial by court martial to clear his position. In view of the facts, as they have now emerged before the Commission, there is no need for any such enquiry or trial.

17. Maj Gen Farman Ali was present at Headquarters Eastern Command, during the last phases of the events when Indian Officers came to meet Lt Gen Niazi for negotiating the details of the surrender. From the detailed accounts which have come before us of the behaviour and attitude of both these officers, we have no hesitation in recording the opinion that at all relevant times Maj Gen

Farman Ali advised Lt Gen Niazi on correct lines, and if his advice had been accepted, some of the disgraceful episodes might have been avoided.

18. We have also examined the reason why the Indian Commander-in-Chief, General Masnekshaw, addressed certain leaflets to General Farman Ali by describing him as Commander of the Pakistan Army. It appears that on the 8th or 9th December 1971, Lt. Gen. A.A.K.Niazi had not been seen outside his command bunker, and there was a broadcast by the BBC that he had left East Pakistan and that General Farman Ali had taken over the command of the Pakistan Army. It was for this reason that the Indian Commander addressed General Farman Ali calling upon him to surrender. We are satisfied that at no time did General Farman Ali indulge in any communication with the Indian Generals. The situation was in any case rectified when Lt Gen Niazi made a public appearance at Hotel Intercontinental, Dacca, before foreign correspondents.

19. An allegation was made before the Commission by Lt Gen Niazi that Maj Gen Farman Ali had sent out of East Pakistan a large sum of money, approximately Rs 60,000, through his nephew who was a Helicopter Pilot in the Army and left Dacca in the early hours of the 16th of December, 1971. We reported Major General Farman Ali to seek his explanation regarding this allegation and some other matters. He has explained that a sum of Rs 60,000/- had been given by the President of Pakistan to the Governor of East Pakistan for expenditure at his discretion. After the Governor of East Pakistan resigned on or about the 14th December 1971, Maj Gen Farman Ali, as Advisor to the Governor, became responsible for this amount. He paid Rs 4000 to Islamia Press, Dacca, and this payment was within the knowledge of the Military Secretary to the Governor, who has also been repatriated to Pakistan. Out of the remaining amount of Rs 56,000/-, Maj Gen Farman Ali paid Rs 5000/- to Maj Gen Rahim Khan at the time of his evacuation from Dacca on the morning of the 16th of December 1971 to meet the expenses en-route which may be required not only by Maj Gen Rahim Khan but also by the other persons who were being evacuated with him. It was stated Maj Gen Farman Ali that Maj Gen Rahim Khan had rendered the necessary account of the sum of Rs. 5000/- given to him.

20. After deducting payments made to the Islamia Press, Dacca, and to Maj Gen Rahim Khan an amount of Rs. 51,000/- WAS left with Maj Gen Farman Ali which he physically handed over to his nephew Major Ali Jawaher at the time of his departure from Dacca on the 16th of December 1971. Since his arrival in Pakistan, Maj Gen Farman Ali has deposited Rs 46,000/- in the Government Treasury and handed over the treasury receipt to Brig. Qazi, Director Pay and Accounts, GHQ. He has claimed the remaining amount of Rs 5000/- on account of house rent allowance sanctioned by the Government of East Pakistan for the residence of his wife and family in West Pakistan. He has stated the sanctioned allowance was Rs 1400/- PM and the period involved was twelve months, so that he could claim Rs 15000/- but he has claimed only Rs 5000/-.

21. We are satisfied with the explanation rendered by Maj Gen Farman Ali, as the facts stated by him are easily verifiable and we do not think that he would have made incorrect statements in this behalf before the Commission.

22. For the foregoing reasons we are of the view that the performance and conduct of Maj Gen Farman Ali during the entire period of his service in East Pakistan does not call for any adverse comment.