

## CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Review Application No.041/00012/2019  
(In OA No.041/00285/2013)

Date of order: This the 27<sup>th</sup> day of November, 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**  
**THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER**

Sri Suresh Kalai, son of Lt. Saktamani Kalai  
Tripura Police Service, Gr. I  
Resident of Village – Kalikanta Para  
P.O. – Jumpuijala, Pin – 799011  
District – Sepahijala, Tripura.



...Review Applicant

By Advocate: Sri C.S. Sinha

-Versus-

1. The Union of India  
Represented by the Secretary  
Ministry of Home Affairs  
Government of India, New Delhi – 110001.
2. The Union Public Service Commission  
Represented by its Chairman  
Dholpur House, Sahajahan Road  
New Delhi – 1100069.
3. The State of Tripura  
Represented by the Chief Secretary  
Government of Tripura  
New Secretariat Complex  
P.O. – Secretariat, Agartala  
District – West Tripura, Pin – 799010.
4. The State of Manipur  
Represented by the Chief Secretary  
Government of Manipur, Imphal  
Manipur, Pin – 795001.



5. The Principal Secretary  
Government of Tripura  
General Administration (P&T) Department  
P.O. – Secretariat, Agartala  
District – West Tripura, Pin – 799010.
6. The Joint Cadre Controlling Authority  
Manipur-Tripura Joint Cadre  
Represented by the Chief Secretary  
Government of Tripura, P.O. – Secretariat  
Agartala, District – West Tripura, Pin – 799010.
7. The Director General of Police  
Tripura, PHQ, Agartala District  
West Tripura, Pin – 799001.
8. Sri Lalhminga Darlong, IPS.
9. Sri Soumitra Dhar, IPS.
10. Sri Arjun Debbarma, IPS
11. Sri Har Kumar Debbarma, IPS.
12. Sri Jitendra Debbarma, IPS.
13. Sri Carey Marak, IPS.
14. Sri Bijoy Nag, IPS.
15. Sri Suranjan Das, IPS.

(Notice to respondent No. 8 to 15 to be served through the Director General of Police, Tripura, PHQ, Agartala, P.O. – Agartala, Pin – 799001.)

...Respondents

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**O R D E R (IN CIRCULATION)**

**NEKKHOMANG NEIHSIAL, MEMBER (A):-**

This R.A. No. 041/00012/2019 has been filed by the Review Applicant for review of the order of this Tribunal dated 10.12.2018 in O.A. No. 041/00285/2013) wherein the said O.A. has been dismissed on merit by this Tribunal.



2. The Review Applicant has filed the instant Review Application essentially on two grounds - firstly that this Tribunal had not appreciated the judgment and order of the Hon'ble Supreme Court in the case of **Dev Dutt Vs. Union of India & Ors, (2008) 8 SCC 725**, secondly - that this Tribunal did not appreciate the para 39 of the said judgment and order wherein the Hon'ble Supreme Court held that – *“this in our opinion is the legal correct position even though there may be no Rule/GO. Requiring communication of the entry or even if there is Rule/GO prohibiting it, because the principle of non arbitrariness in state action as envisaged by Article 14 of the Constitution in our opinion requires such communication. Article 14 will override all Rules or*

*government orders" and therefore the existence or non existence of Memorandum No. F. 11(1)-GA (P&T)/92 dated 05-03-2010 is immaterial."*



3. The issue of communication of ACR/APAR gradings to an employee has arisen from the case of the appellant in that case wherein for promotion to the post of Superintendent Engineer, the benchmark for consideration was 'Very good', but the appellant's grading for the year 1993-94 was only 'Good' and he was consequentially not promoted to that grade. In the context of this case, the Hon'ble Supreme Court has directed that irrespective of the actual grading of the ACR, the same should be communicated to the employee so that the employee, if he desires, can make representation for upgradation of the gradings of ACR.

4. In the present case of the applicant, his ACR including the relevant period was not communicated to the applicant. This was due to the fact that none of his ACR including the relevant period was adverse. There was no such an order for communication of non-adverse ACR at that time. However, from the records as brought out by the applicant, his ACR for the period

from 2005 to 2006, from 01.04.2006 to 06.10.2006 and from 01.04.2007 to 31.03.2008 and from 01.04.2008 to 31.03.2009 were either 'Good' or 'Non-initiated'. As regards 'Non-initiation' period, the committee specifically indicated that they are not taken into account.



5. In order to examine whether the Applicant has been adversely impacted in the assessment by the Selection Committee, this Tribunal in its order dated 02.11.2018 directed the UPSC i.e. respondent No. 2 to supply a copy of the Minutes of the Selection Committee held on 01.11.2011. Accordingly, the UPSC i.e. respondent No. 2 had made available a copy of the Minutes of the Selection Committee. It has been clearly indicated in the Minutes that the Selection Committee would go through the entire service records of the eligible officers and after deliberation will record the assessment of the Committee. The Selection Committee has to make a categorization on the basis of available ACR. The Selection Committee should consider the ACRs of the years preceding the period of five years. For making an overall relative assessment, the Committee is

not to depend solely on the grading recorded by the Reporting/Reviewing Officer/Accepting authority but is to make its independent assessment of the service records of the eligible officers. The Committee did not take into consideration the adverse remarks in the ACRs of the officers which were not communicated to them, while assessing their suitability.



6. Accordingly this Tribunal has taken a view that in the assessment by the Selection Committee, the impacts on overall assessment of the officer by the Committee in these periods were not negative. As regards of non-communication of ACR during these periods since there was no order or instruction for communication of all the gradings of ACR, the respondent authorities more particularly State Government obviously have not communicated to the Applicant and also to other officers, as well. This demand for communication of the selective periods which were also not adverse is found not justified and not maintainable, particularly when the selection is on the overall assessment and not on bench mark basis.

7. Keeping in view of the above as well as on examination of the matter, we are of the considered view that the applicant, in this RA, have failed to project any justifiable grounds in support of his case, we found that the Review Application is not maintainable and has no merit. Accordingly, the same is hereby dismissed.



**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

**PB**