

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2093/2018

Today, this the 08th day of December, 2020

Through video conferencing



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Raj Kumar Singh, aged 49 years
S/o Shri Shyam Lal Singh
R/o B-50, MEA, ResidentialComplex
Chanakyapuri, New Delhi-1100211
Presently working as Director, WANA Div., MEA
South Block, New Delhi. ...Applicant

(By Advocate : Shri Rajendra Prasad)

Versus

1. The Union of India
Through the Cabinet Secretary
Govt. of India
Rashtrapati Bhawan, New Delhi-110004.
2. The Foreign Secretary
Ministry of External Affairs
Government of India
South Block, New Delhi-110001.

...Respondents

(By Advocate : Sh. Rajeev Kumar)

ORDER (ORAL)**Mr. A. K. Bishnoi, M(A):**

The applicant is an Officer of 1996 batch of the Indian Foreign Service (hereafter referred to IFS). He was promoted to Grade IV in 2008. However, in the selection process which was undertaken in the year 2014 when he became due for promotion to Grade III, Joint Secretary level, along with his batch mates, his name did not feature in the promotion list though officers of his batch were promoted. Aggrieved by this, he has filed this OA seeking the following reliefs:

“1. Declare the ACRS as well as adverse remarks/comments given for the period between 08-08-2007 to 31-03-2008, between 01-04-2008 to 31-03-2009, between 1-04-2009 to 30-09-2009 null and void and expunged and further declare that over all grading for the above period upgraded “Out Standing” or above the Benchmark.

2. Declare the acts of the respondents as null and void & quashed while treating the period between 13-10-2009 to 31-03-2010 as no report period for the purposes of grading of ACRS/APAR and with further declaring and treating grading for this period as “Out Standing” and above the “Benchmark”.

3. Declare the acts of the respondents in keeping still pending APAR during the period between 01-04-2014 to 04-12-2014 as not correct, illegal and null and void with further declaring and treating for grading purposes in this period “Out Standing” and above the “Benchmark”.



4. Declare the applicant promoted or issue directions to the respondents to promote the applicant to the next higher grade of Grade III in the rank of Joint Secretary in IFS cadre since and from the year 2014 from which his batch mates of 1996 batch have been first promoted or given promotions (i.e. from Grade IV to Grade III in JS rank).
5. Issue directions to the respondents to grant and to give all due benefits of seniority by placing him at his correct seniority place in and amongst 1996 batch of IFS and other benefits sine 2014 including all consequential benefits of arrears of salary on promotion to the next grade/position which the applicant is entitled under the law of the land and the rules.
6. Award the appropriate cost to the applicant for this litigation.
7. Pass any such other and further order and or relief to the applicant which this Hon'ble Court may deem fit and proper in the circumstances of the case and may be granted in favour of the applicant."

2. It is the contention of the applicant that he was not judged fairly though his performance has been of a very high standard. In this regard he made certain representations but did not receive a favourable response. He has also cited the case of a particular officer under whom he worked and has alleged that as that officer was adversely disposed towards him, an attempt was made to spoil his record. Details of the gradings that he received in his various APARs have also been given.

3. Counter reply has been filed on behalf of the respondents which also refers to the gradings of the applicant.



4. In short, what is said in the counter reply can be summarized as follows:

- (a) From the year 2001 till 2008, gradings of the applicant in the APARs were 'below benchmark'.
- (b) For the period from 01.04.2008 to 31.03.2009 and 01.04.2009 to 30.09.2009, the applicant did not submit his self-appraisal report.
- (c) It is only for a limited period namely, from August, 2003 to March, 2004 and April, 2004 to March, 2005 and 16.07.2010 to 31.03.2011 that the applicant submitted his representations which were duly acted upon and decided.
- (d) The period from 01.10.2009 to 31.03.2010 was treated as 'no report period' as there was no sole supervisor for a continuous period of 90 days for this period.

5. We heard Sh. Rajendra Prasad, learned counsel for the applicant and Sh. Rajeev Kumar, learned counsel for the respondents.

6. Learned counsel for the applicant in his submission further explained the contentions made in the OA and emphasised that the applicant performed extremely well and that he has been unfairly



treated by denying him his promotion, and, in this context, also referred to the negative role of one particular officer for the period from August, 2007 to September, 2009. On the point of applicant not submitting his self-appraisal reports for certain years, his reply was that he was too busy and hence did not find the time to submit the APARs.

7. Learned counsel for the respondents mainly focused on the process involved and submitted that the process which was followed was transparent and fair, based on record and there was no element of malice towards the applicant.

8. We have carefully gone through the pleadings on record as also the submissions made by the learned counsels for the two sides.

9. The facts of the case, for the sake of perspective are, briefly, as follows:

(1) The performance of the applicant in the years from 2001 to 2008 has been rated as 'below benchmark'.

(2) For the period from 01.04.2008 to 31.03.2009 and 01.04.2009 to 30.09.2009, the applicant did not submit his self-appraisal report.

(3) The applicant availed of the opportunity for duly making a representation against the APARs, as per prescribed procedure only



for the period from August, 2003 to March, 2004 and April, 2004 to March, 2005 and 16.07.2010 to 31.03.2011.

(4) The period from 01.10.2009 to 31.03.2010 was treated as 'no report period' as there was no sole supervisor for a continuous period of 90 days for this period.

(5) The applicant had referred to certain officer to whom he reported, who has been prejudiced against him. It is for those years, when he was working under that officer that he omitted to submit his self-appraisal reports.

10. We are all aware that promotions take place in different services as per the process planned for that particular service. The same is true for the IFS. The scope of judicial intervention is limited to determining whether the process followed is duly acceptable under law. We are not here to examine the service record of individuals who may be dissatisfied with the interpretation and the conclusion regarding their capability for promotion or otherwise by a body duly authorized to do so. In other words, we do not go into the issue of correctness or otherwise of inference drawn by the competent body about the qualities of an officer as being fit or unfit for promotion. The jurisdiction is limited to the process and we find that the process has been duly followed. The applicant was given ample opportunity to seek



redressal of his grievances and whenever he chose to do so, as per procedure and within time, necessary action was taken. Having said that, we find no need to discuss any other issue which is outside the domain of the present adjudication.

11. In view of the above we find that the OA is without merit and is accordingly dismissed. No costs.

(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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