



# Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.4437/2017

Thursday, this the 3<sup>rd</sup> day of December, 2020

(Through Video Conferencing)

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

Nirmal Kumar Chawdhary  
Aged 56 years  
s/o late Shri Tarapad Chawdhary  
Deputy Secretary (EAF)  
Ministry of External Affairs  
0124, Jawahar Lal Nehru Bhawan  
Janpath, New Delhi – 110 001

Currently residing at :

A-31, MEA Housing Complex  
Plot No.1, Sector 2, Dwarka  
New Delhi – 110 075

(By Advocates: Mr. A K Behera and Mr. Jatin Parashar) .. Applicant

Versus

Union of India through  
The Foreign Secretary  
Ministry of External Affairs  
South Block, New Delhi – 110 001

(By Advocate: Mr. Manjeet Singh Reen)

.. Respondent

## ORDER (ORAL)

**Justice L. Narasimha Reddy:**

The applicant is an officer of Indian Foreign Service (IFS) of 2003 batch. He became due for promotion for Grade IV in Pay Band 4 – Rs.37400-67000 with Grade Pay Rs.8700/-. The Departmental Promotion Committee (DPC) for this purpose



met on 10.02.2016. It recommended the names of 39 officers, and declared 3 officers as unfit. In case of 11 officers including the applicant, it deferred consideration, on account of below benchmark of Annual Performance Appraisal Reports (APARs) for the preceding 5 years. The applicant feels aggrieved by the denial of promotion to him to Grade IV of IFS. He made several representations but when no specific response was received from the respondents, he filed this O.A. with a prayer to direct the respondent to quash and set aside the communication dated 24.11.2017, through which his promotion has been deferred. He has also prayed for a direction to the respondents to reconsider his case for promotion to Grade IV of IFS w.e.f. 01.01.2016. Other consequential directions are also prayed.

2. The respondents filed a detailed counter affidavit. According to them, the case of the applicant was no doubt was examined but on finding that his APARs for the relevant 5 years were not up to the bench mark, he was not recommended for promotion.
  3. We heard Mr. Ajesh Luthra with Mr. Jatin Parashar, learned counsel for applicant and Mr. Manjeet Singh Reen, learned counsel for respondents, at length, through video conferencing.
  4. The respondents published a list of officers promoted to Group IV of IFS of 2003 batch. The name of the applicant does
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not find in it. Learned counsel for the parties were heard at length on various occasions. The respondents were directed to make available the Minutes of DPC, that met on 10.02.2016 and it has since been filed. It is evident that after recommending the names of 39 officers and declaring 2 officers as unfit, the DPC made the following observations in respect of 11 officers, including the applicant:

“The DPC could not take a decision regarding suitability of following officers due to non-availability of sufficient APARs and below-benchmark grading. These officers will be considered for promotion in a subsequent DPC when sufficient APARs are available for last five years or when the representations against below-benchmark gradings are disposed of.

Sl.No.	Name of the officer	Current Deployment
1.	Subir Dutta	FS, EOI Vientiane
2.	Arundhati Das [Ms.]	FS, HCI Dhaka
3.	Narinder Singh	CG, CGI Sittwe
4.	Tej Ram Meena	FS, EOIM Tripoli
5.	R.K.T.Arasu	DS[SKC], MEA
6.	Nirmal K.Chawdhary	Consul, CGI Melbourne
7.	Amarjeet Singh Takhi	FS-designate, EOI





		Warsaw
8.	Ashok Kumar	FS,EOI Addis Ababa
9.	Bimla Rani Chander	DS[CT]MEA
10.	Benjamin Bersa	FS, EOI Dublin
11.	Chander Prakash Gandhi	FS, EOI Madrid

From this, it is evident that the name of the applicant was not recommended on account of the fact that sufficient APARs for the relevant years were not available.

5. The applicant filed copies of APARs of 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14, which are relevant for the said promotion. While the APARs for the years 2009-10, 2010-11, 2011-12, 2012-13 and half of 2013-14 (01.04.2013 to 02.07.2013) are rated as 'Outstanding', the one of second half of 2013-14 (17.10.2013 to 31.03.2014) is rated as 'Good'. The benchmark, which is adopted for promotion, is 'Very Good'. In other words, it is only the officers, who got their APARs assessed as 'Very Good' or above for 5 years, that are treated as fit for promotion. The applicant, no doubt, was assessed 'Outstanding' in 2009-10, 2010-11, 2011-12, 2012-13 and half of 2013-14, as against the requirement of 'Very Good'. But in respect of the half of year 2013-14, he was assessed as 'Good'. Unless this grading is upgraded, his case cannot be considered.



As the things stand now, we do not find any illegality in the impugned order.

6. We do not find any merit in this O.A. It is accordingly dismissed. However, we leave it open to the applicant to make a representation to the competent authority for upgradation of the APAR of the second part of the year 2013-14. Depending upon the outcome thereof, he shall be entitled to pursue further remedies.

There shall be no order as to costs.

( A.K. Bishnoi )  
Member (A)

(Justice L. Narasimha Reddy)  
Chairman

December 3, 2020  
/sunil/rk/ankit/sd