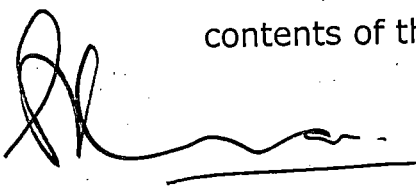


19.11.2008 as is apparent from the penultimate paragraph of Annexure A/10, such a stay against the ad-hoc promotion of the applicant could also have operated only upto 03.02.2009, the date of issuance of the order of Appellate Authority vide Annexure A/9, by which order, the period of penalty imposed upon the applicant stood already exhausted/expired earlier on 31.01.2009 itself.

16. From 03.02.2009 onwards, there was no reason, logic or basis for the respondents not to have given effect to the order of ad-hoc promotion already issued in favour of the applicant through Annexure A/3 dated 23.09.2008 by the respondent no. 2, and reissued and reiterated by the respondent no. 3 through his order dated 30.09.2008 (Annexure A/4).

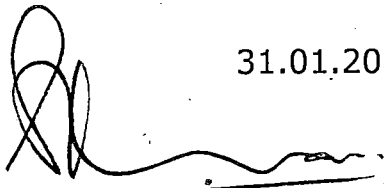
17. The respondents have, therefore, obviously erred in not giving effect to the orders already passed by them through Annexure A/3 and Annexure A/4 after issuance of the order of the Appellate Authority through Annexure A/9, even though a request in this regard had been made on behalf of the applicant by respondent no. 4 through Annexure A/10 dated 06.02.2009. Also, it is incorrect to state that the order of ad-hoc promotion of the applicant was revoked during the currency of his punishment, as such an order got passed and communicated only on 16.02.2009, after the period of currency of the punishment was over on 31.01.2009, as is apparent from the contents of the impugned order at Annexure A/1 itself.



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18. A perusal of Annexure A/11 dated 08.09.2009 shows that a number of juniors of the applicant have also been given ad-hoc promotions. It is clear that the Departmental Promotion Committee meets only for giving substantive promotions, and ad-hoc promotions are actually issued by the official superiors in exercise of their administrative powers. Therefore, the contention of the respondents that Annexure A/11 dated 08.09.2009 issued for ad-hoc promotions accorded to 20 of the juniors of the applicant does not affect the applicant is also not acceptable, as valid, since without holding a proper Departmental Promotion Committee, which alone can decide about the suitability of the candidates for regular promotions, ad-hoc promotions to the juniors of the applicant could not have been ordered or given effect to without first giving effect to the ad-hoc promotion already ordered earlier in favour of the applicant.

19. Therefore, the respondents have not been able to properly justify their action in not giving effect to their own orders dated 23.09.2008 (Annexure A/3) and dated 30.09.2008 (Annexure A/4) after the issuance of the orders of the Appellate Authority dated 03.02.2009 (Annexure A/9). The respondents also did not have any authority to pass an order on 19.02.2009, stating that the orders of ad-hoc promotion of the applicant are cancelled, since such an order could have been passed by them only during the currency of the applicant's punishment, but not after 31.01.2009, when the punishment period had exhausted itself.

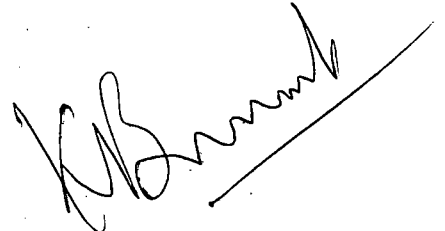


Thereafter, the respondents were empowered to cancel the transfer, but not the ad-hoc promotion of the applicant, the benefit of which had already accrued to him at least with effect from 03.02.2009, the date of the orders of the Appellate Authority, if not from 01.02.2009 itself, after the currency of the period of his punishment.

20. In the result, the Original Application is allowed, the impugned order dated 24.02.2009 (Annexure A/1) and order dated 07.08.2009 (Annexure A/2) are quashed and set aside, and the respondents are directed to give the effect to their orders of ad-hoc promotion of the applicant to the post of HSG-I, ordered through order dated 23.09.2008 (Annexure A/3), and consequential order dated 30.09.2008 (Annexure A/4), with effect from the date of issuance of the order of the Appellate Authority dated 03.02.2009 (Annexure A/9), by which date the penalty imposed upon the applicant also stood expired on 31.01.2009 itself, and all the consequential benefits would also follow and accrue to the applicant. However, since there is no hint of mala-fide action on the part of the respondents, there shall be no order as to costs.



(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER



(DR. K.B. SURESH)
JUDICIAL MEMBER