

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No. 383 of 2010**

*TUESDAY*, this the *19<sup>th</sup>* day of *JULY*, 2011.

**CORAM:**

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER  
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Shibu M. Job, S/o. Chacko E  
Director of Postal Services  
Central Region, Kochi – 18  
Residing at Director's Quarters  
Department of Posts,  
Panampilly Nagar, Kochi – 682 036. .... **Applicant**

(By Advocate Mr. O.V. Radhakrishnan, Senior  
with Mrs. K. Radhamani Amma)

**Versus**

- 1 Union of India  
Represented by its Secretary  
Department of Posts  
Ministry of Communication and  
Information Technology  
Dak Bhavan, New Delhi – 110116.
- 2 Departmental Promotion Committee  
Represented by The Chairman  
Union Public Service Commission  
Dholpur House, Shahajan Road  
New Delhi – 110 069
- 3 Abhinav Walia  
Post Master General  
(BD Technology & Marketing)  
Chattisgarh Circle, Gorakhpur – 273 008.
- 4 Anil Kumar I  
Post Master General  
U.P. Circle, Gorakhpur – 273 008.
- 5 Selva Kumar B  
Post Master General Southern Region,  
Tamil Nadu Circle, Madurai – 625 002.



6 Gupta V.K  
 Post Master General (MM)  
 West Bengal Circle  
 Yogayaog Bhavan  
 Kolkatha – 700 012.

7 Alok Saxena  
 Deputy Director General (Technology)  
 Department of Posts  
 Dak Bhawan, New Delhi 110 116. .... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC for R-1)  
 (By Advocate Mr. Thomas Mathew Nellimoottil for R-2)

The application having been heard on 22.06.2011, the Tribunal  
 on .19.-07.-11. delivered the following:

**ORDER**

**HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

The applicant is presently working as Director, Postal Services, Central Region, Kochi, under the Kerala Postal Circle. He was directly recruited to the Indian Postal Service (Group-A) along with the respondents 3 to 7 in the year 1989 and is senior to them. He has been superseded in the matter of promotion to the Senior Administrative Grade (SAG) by them, for the vacancies of the year 2009-10. Aggrieved, the applicant has preferred this O.A. He challenges his exclusion from the select list and further seeks a direction to hold a review DPC to consider him for promotion to the SAG without taking into account any adverse entry which has not been communicated to him from the date of his entitlement and to include him in the select list for promotion to the SAG above the respondents 3 to 7 and promote him to the SAG with effect from 11.02.2010 with all consequential benefits.

2, The bench mark for promotion to the SAG Group-A in PB-4 Rs. 37400-



67000 + GP of Rs. 10000/- is 'Very Good' in all ACRs of 5 years under consideration and the mode of promotion is selection. The applicant was given the grading of 'Good' in the ACR for the year 2004-05 and for the period from 01.04.2005 to 06.09.2005 in the ACR for 2005-06. The grading below the bench mark as above was not communicated to him.

3. The submissions of the applicant in short, are as under. His non-promotion to the SAG on the basis of non communicated adverse entries is patently illegal and is hit by the ratio of decision of the Apex Court in *Dev Dutt vs. Union of India*, (2008) 8 SCC 725. Any grading below the bench mark has to be treated as adverse remark and should have been communicated to the applicant. It is well settled that uncommunicated adverse remarks cannot be taken into account for making selection by the DPC. The supersession of the applicant has adverse civil consequences for him and is violative of the equality clause in the Constitution of India. In the aforesaid case, the Apex Court held that transparency and good governance are to be added as new components of natural justice and all persons in public employment are entitled to know gradings given to them in Confidential Reports and to represent against them. The proceedings of the review meetings of the DPC held on 28.05.2010 are liable to be declared non est as abated in view of Section 19(4) of the Administrative Tribunals Act. The respondents cannot recall or modify their action based on which the Original Application is made before this Tribunal so as to render the proceedings before the Tribunal infructuous and nugatory. In Annexure A-10 select list for year 2009-10, he has been included at Sl. No. 6 which was approved by the Minister of Communications and IT as evidenced by Annexure A-8. Annexure

A handwritten signature consisting of a stylized 'A' and a checkmark.

A-12 Business Rules do not contemplate approval by the Appointments Committee of the Cabinet (ACC) of the selection made for appointment to the SAG. The selection to the SAG falls within the exempted category not requiring the approval of the ACC. The ratio of the decision in *Union of India and Another vs. S.K. Goel and Others*, (2007) 14 SCC 641 is held to be not good law in Dev Dutt's case (supra). In the decision in *K.M. Mishra vs. Central Bank of India*, (2008) 9 SCC 120, no law has been declared whereas in Dev Dutt's case, Hon'ble Supreme Court has laid down the law on the point of communication of ACRs and it is binding on all the Courts within India. The review of the inclusion of the applicant in the select list for the year 2009-10 by the DPC under the pretext of taking a relook, as prompted by a clarification called for by the ACC is clearly without authority of law. Deleting his name from the select list under the pretext of correcting an inadvertent mistake is totally arbitrary. The DPC while making an overall assessment is competent to upgrade the grading of the applicant for the years 2004-05 and part of 2005-06 having regard to the gradings in his ACRs in respect of various parameters for the years 2003-04 to 2007-08. The minutes of the meeting of the DPC held on 27.05.2010 at Annexure A-10 does not support the stand that the DPC had assessed the applicant as 'Good' for the years 2004-05 and 2005-06 on the basis of the entries in his ACRs and the stand that while transporting the same in the assessment sheet, those gradings were inadvertently shown as 'Very Good'. A person who is otherwise 'Outstanding' and 'Very Good' cannot be busted to below the bench mark which can be due to some personal vagaries of the Reporting Officer during the relevant period. It was further submitted that no appeal is provided under the Rules against non selection for promotion to the SAG. None of the

grounds for holding review DPC on 28.05.2010 has been made out. The legal effect of the law declared by the Hon'ble Supreme Court in Dev Dutt's case cannot be restricted by issuing executive/administrative instructions with prospective effect. The applicant also relied on the decision of the Apex Court in ***Abhijit Ghosh Dastidar vs. Union of India and Ors.***, CDJ 2008 SC 2359 (Annexure A-7) which held that the below bench mark entry of 'good' should have been communicated to the applicant therein and that the same should not have been taken into consideration for promotion to the higher grade.

4. The contentions of the respondents are summarised below. A meeting of the DPC was held on 27.10.2009 to consider promotion of the Junior Administrative Grade officers of the Indian Postal Service to the SAG for the vacancy year 2009-10. The applicant was considered by the DPC and was recommended for promotion to the SAG. The Appointments Committee of the Cabinet (ACC) vide reference No. 24/27/2009-EO(SM-11) dated 22.01.2010 sought clarification on inclusion of the name of the applicant in the panel recommended by the DPC despite his ACRs for the years 2004-05 and 2005-06 being below the bench mark. The UPSC decided to hold a review meeting of the DPC on 28.05.2010 to reconsider the case of the applicant. The review DPC observed that the original DPC had assessed the applicant as 'Good' for the year 2004-05 and 2005-06 on the basis of entries in the ACRs. While transporting to the assessment sheet, these gradings were inadvertently shown as 'Very Good'. As a result, he was shown as fit for promotion. The review DPC decided to correct the inadvertent mistake and grade him unfit for promotion to the SAG. As per the extant instructions during the relevant period, only the adverse entries in the ACRs and not

A handwritten mark or signature consisting of a vertical line with a diagonal stroke extending from the top right.

grading below the bench mark were to be communicated to the officer. However, in compliance with the judgement dated 12.05.2008 in the case of Dev Dutt vs. Union of India, the new system of communicating the entries in the Annual Performance Appraisal Report (APAR) is made applicable prospectively with effect from the reporting period. The applicant has not made any representation to the department but has directly filed this O.A. There are conflicting views of Hon'ble Supreme Court. In **K.M. Mishra vs. Central Bank of India**, (2008) 9 SCC 120, wherein it was held that mere downgrading of ACRs from 'Very Good' to 'Good' does not entitle a person to the communication of the same. A diametrically opposite view has been taken by the Apex Court in Dev Dutt's case. In view of the Government of India (Transaction of Business) Rules, 1961, approval of the ACC for empanelment of officers of Indian Postal Services for promotion to the SAG is mandatory. All appointments of civilian officer in the Government of India carrying a pay band with grade pay equivalent to or higher than the pay/salary payable to a Joint Secretary to Government of India requires the approval of the ACC. The review DPC meeting held on valid grounds is absolutely legal as per procedure laid down in DOP&T O.M. No. 22013/1/97-Estt(D) dated 13.04.1998 so that the correct position could be ascertained.

5. In the statement filed on behalf of the Union Public Service Commission, the respondent No. 2, it was submitted that UPSC is an advisory body set up under Article 315 of the Constitution with the obligation to ensure that all selections made for regular appointments to the services/posts of the Union of India as falling under its purview are made strictly in accordance with the statutory rules and relevant instructions issued



by the Government of India from time to time. It was admitted that the applicant was assessed as fit by the DPC meeting held on 27.10.2009. The DPC realised that an error had crept in while transferring the grading of the applicant to the assessment sheet which had resulted in committing the mistake of the overall assessment of the applicant being taken as 'fit' for promotion. For correcting the error that had crept in while transferring the grading of the applicant to the assessment sheet, the DPC suo moto decided to hold a review meeting of the DPC for which the DPC is fully competent as per the instructions issued by the DOP&T vide O.M. No. 22011/5/6-Estt.(D) dated 10.04.1989.

6. We have heard Mr. O.V. Radhakrishnan (Sr.) with Ms. K. Radhamani Amma, learned counsel for the applicant and Mr. Sunil Jacob Jose, learned SCGSC for respondent No.1 and Mr. Thomas Mathew Nellimootttil, learned counsel appearing for the respondent No. 2 and perused the records.

7. The issues to be adjudicated in this O.A are (i) whether the review DPC meeting held on 28.05.2010 is sustainable in law or not and (ii) whether the applicant has been considered for promotion as per law and the relevant instructions or not.

8. This O.A. was admitted on 19.05.2010 after hearing the preliminary arguments and the review DPC meeting was held on 28.05.2010. Section 19 (4) of the Administrative Tribunals Act, 1985 reads as under :

"19(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the

A handwritten signature consisting of a stylized 'A' and a vertical line.

subject matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter thereafter be entertained under such rules."

The DPC meeting held on 27.10.2009 had considered the applicant 'fit' for promotion to the SAG as per rules. On seeking a clarification, the UPSC suo moto decided to review its earlier recommendation in regard to the applicant. It was not correction of a minor mistake that took place in the review DPC meeting held on 28.05.2010, nine days after the admission of this O.A.. It turned upside down the recommendation of the applicant as 'fit' for promotion, and graded him as 'unfit' for promotion resulting in serious adverse civil consequences to him. The normal career progression of an officer has been abruptly stopped. The UPSC is an advisory body set up under Article 315 of the Constitution with the obligation to ensure that all selections made for appointments to the services/posts of the Union of India as falling under its purview are made strictly in accordance with the statutory rules and relevant instructions issued by the Government of India from time to time. The mistake that is claimed to have occurred in transporting the assessment of the applicant to the assessment sheet in no way enhances the confidence of the stake holders in the UPSC as the highest constitutional body in the country to conduct selection to crucial posts in the Government. What the Appointments Committee of the Cabinet sought was a clarification, not a relook at the case of the applicant for promotion. But a relook was done in the review DPC meeting held after the admission of this O.A filed by the applicant for his promotion. Any proceeding for consideration of, or, relook at the promotion of the applicant with adverse consequences to him after the

A handwritten signature or mark, possibly 'A', is located at the bottom right of the page.

admission of this O.A except at the direction of this Tribunal , is non est as abated, in view of Section 19(4) of the Administrative Tribunals Act, 1985. Therefore, we hold that the review meeting of the DPC held on 28.05.2010 to the extent it relates to the applicant is not sustainable in law.

9. Ignorance of law is not an excuse acceptable in judicial proceedings. The DPC is expected to aware of the law enunciated by the Hon'ble Supreme Court in **Dev Dutt's case** (supra) which is landmark judgement in service jurisprudence. After holding that the 'Good' entry in fact, is an adverse entry when the bench mark for promotion is 'Very Good' entry and that every entry in the ACR of a public servant must be communicated to him within a reasonable period whether it is poor, average, good, very good or outstanding and that non communication of entries in the annual confidential report of a public servant, whether he is civil, judicial, police or any other service (other than the military), certainly has civil consequences because it may affect his chances for promotion or other benefits, the Apex Court held that "such non communication would be arbitrary and as such violative of Article 14 of the Constitution." The 'good' entries in the ACRs of the applicant for the year 2004-05 and part of 2005-06 are adverse entries in the context of eligibility for promotion. The DPC ought to have taken these 'good' entries as adverse entries and considered the applicant for promotion as per instructions in this regard by the Government of India..

10. The said 'good' entries being adverse entries not communicated are liable to be ignored by the DPC as per DOP&T O.M.No. 22011/3/88-Estt. (D) dated 11.5.1990. The procedure for dealing with the adverse entries in the



CRs by the DPC, as provided in the aforesaid O.M. is as under :-

"(i) "Where the DPC find that the adverse remarks in the CR of an officer have not been communicated to him but the adverse remarks are of sufficient gravity to influence their assessment of the officer concerned, then the Committee shall defer consideration of the case of the officer, provided these remarks have been recorded in any of the CRs pertaining to three immediately preceding years prior to the year in which the DPC is held and direct the Cadre Controlling authority concerned to communicate the adverse remarks to the officer concerned so that he may have an opportunity to make a representation against the same. Where the un-communicated adverse remarks pertain to a period earlier than the above or where the remarks are not considered of sufficient gravity to influence the assessment of the officer concerned, the DPC may proceed with consideration of the case but may ignore the remarks while making the assessment;

(emphasis supplied)

The meeting of the DPC was held on 27.10.2009. The adverse entries pertain to the period from 01.04.04 to 06.09.05 (2004-05 and part of 2005-06). This period pertains to a period beyond 3 immediately preceding years prior to the year in which the DPC meeting was held. Therefore, it was not possible for the DPC to direct the Cadre Controlling Authority concerned to communicate the adverse remarks to the applicant so that he might get an opportunity to make a representation against the same. So, the DPC should have proceeded with consideration of the case of the applicant as per the aforesaid OM, ignoring the adverse entries of 'good' in accordance with the decision of the Apex Court in Dev Dutt's case. In ***Abhijit Ghosh Dastidar vs. Union of India & Others*** (supra), the Apex Court had followed its decision in Dev Dutt's case. If as per extant instructions, it was not necessary to communicate the below bench mark entry of 'good' to the applicant, the DPC should have known that non-communication of any adverse remark being 'good' entry or any entry below the bench mark is clearly arbitrary and



hence illegal as has been held by the Apex Court in Dev Dutt's case and that no rule or Government instruction can violate Article 14 or any other provisions of the Constitution, as the Constitution is the highest law of the land.

11. The yearwise grading in respect of the applicant reproduced in the reply statement filed by the respondent No. 1 is shown below:

Year	Period	Grading by Reporting Authority	Grading by Reviewing Authority
2003-04	01.04.03 – 31.12.03	Outstanding	Review in second part Very Good for 1 year
	01.01.04 - 31.03.04	Very Good	
2004-05	01.04.04-31.03.05	Good	Good
	01.04.05-02.08.05	PMG, Kochi Grading 'Good' (for period from 1.4.05 to 6.9.05)	CPMG , Kerala >90 days, but no review undertaken
	04.08.05-06.09.05		CPMG, Kerala <90 days – review at the end of the year
2005-06	07.09.05-20.11.05	PMG, Kochi <90 days – no ACR	CPMG, Kerala Grading-Review at the end of the year
		PMG, Kochi Grading 'Outstanding'	
2006-07	01.04.06-01.08.06	The officer had worked under three officers, the period of observation for each was less than 3 months.	
	07.08.06-31.03.07	Outstanding	
2007-08	01.04.07-31.03.08	Outstanding	

The reporting authority graded the applicant as 'good' for the period 01.04.05 to 06.09.05. No review of this entry was done by the CPMG, Kerala Circle



(reviewing authority), as he was in charge for less than 90 days during the said reporting period. The aspect that the grading 'good' given by the reporting authority was not reviewed by the reviewing authority was available for consideration by the DPC. Further, the review authority had graded the applicant as 'Outstanding' for eight months from 04.08.05 to 31.03.06 which covered the period 01.04.05 to 06.09.05 partly thereby upgrading the 'Good' entry for the period from 04.08.05 to 06.09.05 to 'Outstanding'. This aspect also was available to the DPC in the ACR concerned. Para 6.2.1 of O.M No. 22011/5/86-Estt (D), dated 10.04.1989 says :

(iv) "6.2.1 (e) - The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of entries in the CRs, because it has been noticed that some times the overall grading in a CR may be inconsistent with the grading under various parameters or attributes"

(v) "6.2.1 (f) - If the Reviewing Authority or the Accepting Authority as the case may be has overruled the Reporting Officer or the Reviewing Authority as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment provided it is apparent from the relevant entries that the higher authority has come to a different assessment conclusively after due application of mind. If the remarks of the Reporting Officer, Reviewing Authority and Accepting Authority are complementary to each other and one does not have the effect of overruling the other, then the remarks should be read together and the final assessment made by the DPC."

(emphasis supplied)

In the instant case, the reviewing authority has overruled the reporting authority in the matter of granting the grade. Further, the aspect of personal prejudice of the reporting authority, if any, against the applicant in grading him as 'good' for the period from 01.04.04 to 06.09.05, in the background of the applicant getting 'very good' in 2003-04, 'outstanding' for major part of



2005-06 and 'outstanding' for 2006-07 and 2007-08 would normally engage the attention of the DPC. It is also to be seen whether the reporting officer was the same officer or not who graded the applicant as 'good' for 2004-05 and for part of 2005-06. The sudden dip between 'outstanding and 'very good' to 'good' for the period from 01.04.04 to 06.09.05 calls for meticulous application of mind by the assessing authority. How an officer can be assessed as 'good' for the year 2005-06, when he has been graded by the reporting officer as 'good' only for the period from 01.04.05 to 06.09.05 and as 'outstanding' by the reporting officer for the period from 02.11.2005 to 31.03.2006 and as 'outstanding' reviewing authority for the period from 04.08.05 to 31.03.06 , merits some explaining.

12. The DPC as per the guidelines circulated by the DOP&T O.M. dated 10.04.89, enjoys full discretion to devise its own methods and procedure for objective assessment of the suitability of candidates who are to be considered by it. The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of entries in the CRs, because it has been noticed that some times the overall grading in a CR may be inconsistent with the grading under various parameters or attributes. In the instant case, it would be advantageous to quote relevant parts from the minutes of the DPC meeting held on 27.10.2009 and 28.05.2010, as under :

Paras 7.1 and 7.2 from the DPC minutes dated 27.10.2009 :

"7.1 The Departmental Promotion Committee accordingly assessed the character rolls of the eligible officers.

1

7.2. The overall assessment in respect of the eligible officers thus made by the DPC is as in Annexure – I.”

**Para 4 from the DPC minutes dated 28.05.2010 :**

“4. The Review Committee were informed that overall assessments in respect of the some officers as made by the original DPC held on 27.10.2009 were available. The Committee decided to adopt the same wherever required as per instructions issued by the DOP&T and to reassess Shri Job M. Shibu. The Review Committee observed that the yearwise assessment made by the original DPC in respect of Shri Job M. Shibu for the years 2003-04, 2006-07 and 2007-08 have been reflected correctly in the Assessment Sheet. However, the original DPC had assessed him as 'good' for the years 2004-05 & 2005-06 on the basis of the entries in the ACR. It is observed that while transporting the same in the assessment sheet these gradings were inadvertently shown as 'Very Good'. This has resulted in the inadvertent mistake of the overall assessment of the officer as 'Fit'. The Review DPC accordingly decided to correct the inadvertent mistake and assessed Shri Job M. Shibu as 'UNFIT' as he failed to obtain the bench mark in all the five ACRs.”

13. It is quite clear that the DPC did not exercise its discretion to devise its own methods and procedures for objective assessment of the suitability of the candidates who are to be considered by it. It would appear that the DPC was merely guided by the non-communicated below the bench mark entries in the ACRs of the applicant which should have been ignored or carefully assessed as explained above. If it had made its own assessment based on the entries in the ACRs with due application of mind to the relevant aspects as pointed out, then that is not evident in the minutes of the meetings of the DPCs. If it were there in the minutes of the meeting of the DPC dated 27.10.2009, occasion for the ACC to seek clarification would not have arisen.

14. The respondents have submitted that there are conflicting views of

Hon'ble Supreme Court in *K.M. Mishra vs. Central Bank of India* [2008 (9) SCC 120] and in *Dev Dutt vs. Union of India* (supra). The decision of the Apex Court in K.M. Misra's case does not deal with the issue whether an uncommunicated adverse entry can be relied on for pushing down an officer on the basis of his grading in the ACR as 'good' for a particular year. It held that mere downgrading of ACR from 'Very Good' to 'Good' does not entitle a person to the communication of the same. But in Dev Dutt's case, it was held that non-communication of the 'good' entry when the bench mark for promotion was 'very good' was arbitrary and hence illegal. In the decision in K.M. Misra's case, no law has been declared whereas in Dev Dutt's case, Hon'ble Supreme Court has laid down the law and it is binding on all the Courts under Article 141 of the Constitution. Therefore, we do not find any contradiction in the views taken by the Hon'ble Supreme Court as stated by the respondents. In *Abhijit Ghosh Dastidar vs. Union of India & Ors.* (supra), the Bench consisting of 3 Judges, the Apex Court followed the decision in Dev Dutt's case which has been decided by a still larger Bench of the Hon'ble Supreme Court. Therefore, the decision in K.M. Misra's case cannot be a basis for the dilemma of conflicting views of the Apex Court in the mind of the respondents regarding communication of the entries in the ACR. The decision of Hon'ble Supreme Court in Dev Dutt's case prevails over other decisions on the matter.

15. The applicant relied on Annexure-I to the first schedule of the Government of India (Transaction of Business Rules), 1961 (Annexure A-12) to buttress the argument that his case should not have been referred to ACC. As per Annexure I(A)(2)(iii) to the first schedule, the appointment of



Organised Group 'A' Central Services Officers to the posts in the cadre other than the posts which carry the pay scale equivalent to the Secretary to the Government of India is excluded from being referred to the ACC. Whether any revision of the above exclusion is required or not, is left to the respondents to consider. However, we do not find any illegality in referring the case of promotion to the SAG of the Indian Postal Service to the ACC inspite of the exclusion. Especially so, when Annexure-II to the First Schedule to the Government of India (Transaction of Business) Rules, 1961, requires approval of the empanelment for making appointments to the SAG.

16. A reply statement has been filed by the Chief Postmaster General, Trivandrum on behalf of the respondents 3 to 7. This is deprecated. Normally a junior officer does not authorize a senior officer to file a statement on his behalf. He is expected to file a reply based only on what he knows, if he desires to do so.

17. Further, we hold that the applicant had no statutorily provided remedy to be exhausted before approaching this Tribunal for getting his grievance redressed under Section 19 of the Administrative Tribunals Act, 1985.

18. Transparency, objectivity, fairness, application of mind to relevant aspects, awareness of the law of the land and the relevant instructions and meticulous care in making the assessment of the suitability of the candidates should be reflected in good measure in the minutes of the meeting of the DPC. In our considered view, the DPC has not given adequate and proper consideration to the case of the applicant for promotion to the SAG in

A handwritten mark or signature, possibly a 'V' or a stylized checkmark, located at the bottom right of the page.

accordance with the law and the relevant instructions by the Government of India in a transparent, objective and fair manner as discussed above. Therefore, this is a fit case for judicial interference on the ground of procedural irregularity. Accordingly, it is ordered as under.

19. The respondents No. 1 and 2 are directed to hold a review meeting of the Departmental Promotion Committee to consider the case of the applicant for promotion to the Senior Administrative Grade afresh in the light of the observations in this order. If the applicant is found fit to be included in the select list and is approved by the Appointments Committee of the Cabinet for promotion to the SAG, he may be given such promotion with effect from 12.02.2010, the date on which his immediate juniors were promoted assigning him seniority over the respondents 3 to 7 and granting him all other service benefits without arrears of pay and allowances. If no regular vacancy is available to accommodate the junior-most officer in the SAG on account of the promotion of the applicant, a supernumerary post in the SAG may be created to accommodate him till a regular post is available. These directions should be complied with within a period of three months from the date of receipt of a copy of this order.

20. The O.A. is allowed as above with no order as to costs.

(Dated, the 19<sup>th</sup> July, 2011)



(K. GEORGE JOSEPH)  
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)  
JUDICIAL MEMBER