

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH.

Original Application No. 506/2000.

Tuesday, this the 21st day of August, 2001.

The Hon'ble Shri Justice Ashok Agarwal, Chairman,  
The Hon'ble Shri G.C.Srivastava, Member (A).

B.B.Dave,  
Flat No.1,  
Postal Officers Quarters,  
Worli Naka Post Office Building,  
Prafulla Bhawan,  
Worli,  
Mumbai - 400 018.  
(By Advocate Shri B.Dattamoorthy)

...Applicant.

v.

1. Union of India, through  
the Secretary,  
Department of Post,  
Dak Bhawan,  
Sansad Marg,  
New Delhi - 110 001.
2. Smt. Arundhatty Ghosh,  
through Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
3. Shri Vineet Pandey,  
through Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
4. Shri Vishwapavan Pati,  
through Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
5. Shri Ashok Pal Singh,  
Director (Savings Bank),  
Department of Posts,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
6. Shri Uday Krishna,  
through the Secretary,  
Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
7. Shri M.N.S.Rao,  
through the Secretary,  
Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
8. Smt. Sujata Choudhary,  
through the Secretary,  
Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.

9. Smt. Sarita Singh,  
through the Secretary,  
Department of Post,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.  
(By Advocate Shri V.S.Masurkar for  
Official Respondents).

: ORDER (ORAL) :

Shri Justice Ashok Agarwal, Chairman.

It is the case of the applicant that he appeared in the Civil Services Examination held by the UPSC in the year 1985 and was selected and appointed in the Junior Time Scale of the Indian Postal Service, Group 'A' and was placed at the top of the merit list. Applicant was promoted to the Junior Administrative Grade Group 'A' vide order of 2nd November, 1995 and was placed at S1. No. 12. In the select list, applicant found that candidates arrayed at S1. Nos. 3 to 6 were junior to him and were yet arrayed senior to him. The DPC which had been convened to consider promotions to the Junior Administrative Grade in 1995 had scrutinised the ACRs for the 5 preceding years i.e. for the years 1990-91, 1991-92, 1992-93 1993-94 and 1994-95. As far as applicant's ACR for 1993-94 are concerned, the same had been reviewed by one Shri C.J.Mathew who held the charge only during the period 17th January, 1994 to 31st March, 1994 as Chief Postmaster General (for short C.P.M.G.), Mumbai. Since the said Shri Mathew had an occasion to observe the performance of the applicant for less than three months he was not competent to review the ACRs, the proper authority was Shri A.V.B.Menon who had the opportunity to observe his performance during the period 1.4.1993 to 16.1.1994. On a representation being made, a decision was duly taken to have the ACRs of 1993-94 reviewed by the said Shri A.V.B.Menon,

the then C.P.M.G. who held the said post during the period 1st April, 1993 to 16.1.1994. The ACR for the said period has accordingly been reviewed. Applicant has thereafter, submitted his representation on 9th September, 1999 to the President requesting for holding of a Review DPC in terms of the changed ACRs of the applicant for the period 1993-94. Applicant has submitted reminders to his representation on 8th November, 1999 and 18th January, 2000. Applicant, has thereafter, instituted the present OA on 18.7.2000 with a prayer to issue a direction to the Respondents to hold a review DPC.

2. The Respondents in their counter have annexed a decision of the Government of India dt. 18th August, 2000 (Annexure R-1), whereby the prayer of the applicant for holding a Review DPC has been considered and rejected on the ground that the change brought about in the ACRs will not bring about any change in the decision of the DPC which was already held on 12th September 1995. Whether the aforesaid decision that no change will be brought about in the ACRs is a function of the Government or of the DPC is a matter which has to be separately decided. Applicant, however, has not impugned the aforesaid decision. Since the said decision now holds the field and since the same has not been challenged in the present OA, we find that it will be impermissible to question the validity of the aforesaid decision in the present OA. In the aforesaid circumstances, Shri Dattamoorthy, Learned Counsel for the applicant prays for withdrawal of the present OA with liberty. Leave is granted to withdraw the OA with liberty. No order as to costs.

*G.C.Srivastava*  
(G.C.SRIVASTAVA)  
MEMBER(A)

B.

*ASHOK AGARWAL*  
(ASHOK AGARWAL)  
CHAIRMAN