CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 16 of 2003
Original Application No. 69 of 2003
Original Application No. 118 of 2004

Bilaspur, this the 22nd day of November 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.K. Bhatnagar, Judicial Member

1. Original Application No. 16 of 2003 -

D.P. Dwivedi, aged about 55 years, S/o. the late R.V. Dwivedi, Assistant Conservator of Forests, R/o. Forest Colony, Gadarwara, Narsinghpur, MP. ... Applicant

(By Advocate - Shri Rajendra Tiwari, Sr. Adv. alongwith Shri Deepak Panjwani)

V e r s u s

1. Union of India, through the Secretary, to the Personnel & Training Department, Lok Nayak Bhawan, Khan Market, New Delhi.

2. Union of India, through the Secretary to the Forests Department, New Delhi.

3. The State of M.P., through the Chief Secretary to the Government of M.P., Vallabh Bhawan, Bhopal.

4. Shri A.K. Nagar, Assistant Conservator of Forests, Van Vihar, Bhopal.

5. Shri M.K. Pathak, SDO, Forests, Bhopal.

6. Shri Shant Kumar Sharma, Attached Officer, Circle Office, Chhindwara.

7. Shri M.C. Singhal, Assistant Conservator of Forests, World Food Programme, Circle Office, Hoshangabad.

8. Shri R.P.S. Baghel, Assistant Conservator of Forests, Capital Project, Bhopal.

9. Shri U.S. Keer, SDO Forests, Production, Betul, MP.

10. UPSC, through its President, Shahjaha Road, Dholpur house, New Delhi. ... Respondents

(By Advocate - Shri S.P. Singh for Union of India, Shri Om Namdeo for State Government of MP & Shri V.K. Shukla with Shri P.K. Singh for the private respondents)

2. Original Application No. 69 of 2003 -

M. Ramchandran, aged about 54 years, S/o. Shri M. Ramamarar, Assistant Conservator of Forests, Ratapani, Wield Life Sanctuary, Obdullah Ganj, R/o. Forests Colony, Obdullah Ganj, District Raisen. ... Applicant

(By Advocate - Shri Rajendra Tiwari, Sr. Adv. alongwith Shri Deepak Panjwani)

V e r s u s

1. Union of India, through :-

a. The Secretary to the Personnel & Training Department, Lok Nayak Bhawan, Khan Market, New Delhi.

b. The Secretary to the Ministry of Environment & Forests, New Delhi.

2. The UPSC, through its President, Shahjaha Road, Dolpur House, New Delhi.

3. The State of M.P., through the :-

a. Chief Secretary, Vallabh Bhawan, Bhopal.

b. The Principal Secretary, Forest Department, Vallabh Bhawan, Bhopal.

4. Shri D.K. Agrawal, Assistant Conservator of Forests, Sub Division Office, Punasa, Distt. Khandwa.

5. Shri K.P. Sharma, Assistant Conservator of Forests (T), (Social Forestry), Forests Division, Gwalior.

6. Shri R.P.S. Baghel, Assistant Conservator of Forests, Capital Project, Bhopal.

7. Shri Ashok Kumar Joshi, Assistant Conservator of Forests, Head Quarter, Bhopal.

8. Shri Atul Khera, Assistant Conservator of Forests, Delhi Depot, New Delhi.

9. Shri Kallu Singh Alawa, Assistant Conservator of Forests, Pench National Park, Seoni.

10. Shri Sarat Singh Rawat, Attached Officer, Forests Circle, Office, Indore.

11. Shri Tarun Shekhar Chaturvedi, Sub Divisional Officer, North Division, (T), Forests Division, Panna. ... Respondents

(By Advocate - Shri S.P. Singh for Union of India, Shri Om Namdeo for State Government of MP & Shri V.K. Shukla with Shri P.K. Singh for the private respondents)

3. Original Application No. 118 of 2004 -

L.P. Tiwari, aged about 49 years,
Son of Shri C.L. Tiwari, DFO, North
Seoni, Production Division, Seoni. ... Applicant

(By Advocate - Shri Rajendra Tiwari, Sr. Adv. alongwith
Shri Deepak Panjwani)

V e r s u s

1. The Union of India

a. Through the Secretary, to the
Personnel & Training Department,
Lok Nayak, Bhawan, Khan Market,
New Delhi.

b. Union of India, through the
Secretary to the Forests & Environment
Department, New Delhi.

2. The State of M.P.

a. Through the Chief Secretary,
Govt. of M.P., Vallagh Bhawan,
Bhopal.

b. Through the Principal Secretary,
to the Department of Forests,
State of M.P. Vallabh Bhawan,
Bhopal.

3. UPSC, through its Chairman,
Shahjaha Road, Dholpur House,
New Delhi.

4. Shri A.K. Nagar, DCF, NVDA
(Wild Life), Indore, MP.

5. Shri M.K. Pathak, DFO (T), Near
Stadium, Civil Lines, Narsinghpur,
MP.

6. Shant Kumar Sharma, DM, Mohgaon
Project, In front of Circuit House,
Mandla, MP.

7. Shri M.C. Singal,DFO, South Narbada
Production, Khandwa, MP.

8. Shri RPS Baghel, DCF, NVDA,
Dhar. ... Respondents

(By Advocate - Shri S.P. Singh for Union of India,
Shri Om Namdeo for State Government of MP &
Shri V.K. Shukla with Shri P.K. Singh for
the private respondents)

O R D E R (Common)

By M.P. Singh, Vice Chairman -

As the facts involved are identical and the issues and grounds raised in all these OAs are common, these OAs

are being disposed of by passing this common order.

2. The applicants have claimed the following main reliefs in their respective OAs :

In OA No. 16 of 2003 -

"8.1 that by issuance of an order equivalent to a writ of Certiorari this Hon'ble Tribunal may kindly be pleased to quash the selection of the respondents no. 4 to 9,

8.2 that by issuance of an order equivalent to a writ of Mandamus this Hon'ble Tribunal may kindly be pleased to command therespondents to call a review DPC and consider the case of the petitioner again treating the ACR for 1999 as 'Ka+' and if found fit to give him promotion in accordance with his seniority among the respondent No. 4 to 9 in the cadre of IFS,

8.2(A) that by issuance of a writ in the nature of certiorari this Hon'ble Tribunal may be pleased to quash Ann. P/5, the notification dated 4.2.2003 to the extent it relates to respondent No. 4 to 9 and further be pleased to direct the respondents to hold a review DPC considering the petitioner alongwith respondent No. 4 to 9 afresh in the light of the submission made in this petition.

In OA No. 69 of 2003 -

8.1 that by issuance of an order equivalent to a writ of Certiorari this Hon'ble Tribunal may be pleased to quash the selection of the respondent No. 4 to 12,

8.2 that by issuance of an order equivalent to a writ of Mandamus this Hon'ble Tribunal may be pleased to command the respondents to call a review DPC and consider the case of the petitioner again and if he is found fit, to place him in the select panel with all consequential benefits of seniority etc.

In OA No. 118 of 2004 -

8.2 that this Hon'ble Tribunal may be pleased to declare that the petitioner ought to have been assessed as outstanding in the year 2001 and should be assigned seniority in the IFS cadre over the respondent No. 4 to 8 and others."

3. The brief facts of these cases are as under :

3.1 In OA No. 16 of 2003, the applicant Shri D.P. Dwivedi, joined the Forest Department of Madhya Pradesh Government as Forest Ranger on 6.4.1970. He was subsequently promoted as Assistant Conservator of Forest on 30.9.1982 and was given the senior pay scale w.e.f. 1.8.1996 and further

given Selection Grade with effect from 1.5.2001. He was eligible for being considered for promotion to the cadre of Indian Forest Service (for Short IFS) in the year 2001. The applicant was given certain adverse remarks for the year ending March, 1999 which were communicated to him through letter dated 3.4.2000. He submitted his representation against the same. The remarks were expunged by the Government vide its order dated 2.1.2002 (Annexure A-4). In order to consider the selection of State Forest Service (for short SFS) officers for induction into IFS, a selection committee meeting was convened on 12th and 13th December, 2002. According to the applicant, he was not assessed as 'outstanding'. If he had been assessed as 'outstanding' his name would have been included in the select list of 2001 and his name would have been placed above the names of respondents nos. 4 & 5. This has purposely been done so that the applicant could not be inducted into the IFS. Since he has completed 54 years of age, he is not eligible for further consideration for promotion to the IFS. Hence, he has filed this OA No. 16/2003 seeking the aforementioned reliefs.

3.2 In OA No. 69/2003, the applicant M. Ramchandran had joined the service in Forest Department of Madhya Pradesh as Forest Ranger with effect from 1.11.1971. He was promoted as Assistant Conservator of Forests on 7.10.1983. The applicant is eligible for being considered for promotion to the IFS. A selection committee meeting was held on 12th and 13th December, 2002 to consider the names of the SFS officers for promotion to the cadre of IFS. According to the applicant, an adverse remark was given to him on 11.12.2000. He submitted his representation on 27.1.2001. The representation of the applicant was rejected vide order dated 11.1.2002 without giving any reasons. He submitted another representation dated 14.10.2002 against the same which is still pending. The

applicant has submitted that the respondent No. 4 was also communicated adverse remarks and representation submitted by him was also rejected vide order dated 6.3.2002. The position of the respondent No. 4 and that of the applicant in respect of adverse remarks is almost similar. The adverse remarks of both of them have been maintained in the service record. The respondent No. 4 was not confirmed before 1.1.2002, whereas the applicant was confirmed. Despite this fact the respondent No. 4 has been selected and the applicant has not been selected. Hence, this Original Application.

3.3 In OA No. 118/2004, the applicant L.P. Tiwari, joined the SFS as Assistant Conservator of Forest with effect from 2nd February, 1982. According to him all the persons who were juniors to him i.e. respondents Nos. 4 to 8 had never such a track record nor were they at any point of time given or made incharge of a cadre post, whereas the applicant was given the said advantage four times and on each occasion the applicant was assessed as 'outstanding'. The superior officers were immensely satisified with his work and had always appreciated his work. The meeting of the selection committee was held to consider the SFS officers for induction into the cadre of the IFS on 20.10.2000. In that year 9 posts were available for promotion to the IFS cadre. The applicant was also in the zone of consideration alongwith others. According to the applicant the respondents Nos. 4 to 8 were assessed as 'outstanding'. Though they were junior to the applicant, their names were placed above him in the notification. The others who were placed above him in the notification, of course were senior to him and, therefore, the applicant can legitimately raise no objection against them. His only grievance is that the private respondents nos. 4 to 8, who were junior to him have been assessed as 'outstanding'

whereas the applicant has not been assessed as 'outstanding'. Hence, he has filed this OA.

4. In the case of selection/promotion of SFS officers for appointment to the IFS, the same is considered by a selection committee which is presided over by the Chairman/Member of the UPSC. The selection is, therefore, made by the UPSC by convening the meeting of the selection committee. In this case the State Government and the Union of India have very limited role to play. The UPSC is the main party which makes the selection of the officers of the SFS for promotion to the IFS. The UPSC has filed the reply in all the three cases.

5. In OA No. 16/2003 the UPSC in their reply has stated that Regulation 3 of the IFS (Appointment by Promotion) Regulations, 1966 (hereinafter referred to as the Promotion Regulations) provides for a selection committee consisting of the Chairman of the UPSC or where the Chairman is unable to attend, any other Member of the UPSC representing it and in respect of the State of MP the following officers as members :

"i) Chief Secretary Addl. Chief Secretary to Government,
ii) Secretary to the Government dealing with Forests,
iii) Principal Chief Conservator of Forests,
iv) Chief Conservator of Forests,
v) A nominee of Central Government not below the rank of Joint Secretary to Govt. of India,

The meeting of the Selection Committee is presided over by the Chairman/Member, UPSC."

In accordance with the provisions of Regulation 5(3AA) of the Promotion Regulations, the aforesaid committee duly classifies the eligible SFS officers included in the zone of consideration as 'outstanding', 'very good', 'good' or 'unfit', as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(4) of the Promotion

Regulations, the selection committee prepares a list by including the required number of names first from the officers finally classified as 'outstanding' then from amongst those similarly classified as 'very good' and thereafter from amongst those similarly classified as 'good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the SFS. The annual confidential records of eligible officers are the basic inputs on the basis of which eligible officers are categoriesed as 'outstanding', 'very good', 'good' or 'unfit' in accordance with the provisions of Regulation5(4) of the Promotion Regulations. The selection committee is not guided merely by the overall grading that may be recorded in the ACRs but in order to ensure justice equity and fair play makes its own assessment on the basis of an in-depth examination of the service records of the eligible officers, deliberating on the quality of the officers on the basis of the performance as reflected under various columns recorded by the reporting/reviewing officer /accepting authority in ACRs for different years and then finally arrives at the classification to be assigned to each eligible officer in accordance with the provisions of the Promotion Regulations. While making an overall assessment the selection committee takes into account orders regarding appreciation for meritorious work done by the concerned officer. Similarly, the selection committee also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which, even after due consideration of his representation have not been completely expunged. The procedure adopted by the committee is uniformly and consistently applied to all States/cadres for induction into the All India Service. According to them the matter relating to assessments made by the selection committee has been contested before the Hon'ble Supreme Court in numberof cases. In the case of

Nutan Arvind Vs. Union of India and others, (1996)2SCC488, the Hon'ble Supreme Court has held as under :

> "When a high level committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this court cannot sit over the assessment made by the DPC as an appellate authority."

In the matter of U.P.S.C. Vs. H.L. Dev and others, AIR 1988 SC 1069, the Hon'ble Supreme Court has held as under :

> "How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the selection committee."

To fortify their arguments, the UPSC has relied upon on number of other judgments given by the Hon'ble Supreme Court. It has also been submitted by the UPSC that the meeting of the selection committee was held on 12 and 13 of December, 2002 to prepare year wise select lists for the years 2001 and 2002 for promotion to the IFS cadre of Madhya Pradesh in accordance with the provisions of the Promotion Regulations as amended on 25.7.2000. The size of the select lists for the years 2001 and 2002 were 11 and 9 against 11 and 9 vacancies respectively as determined by the Central Government (Min. of Environment & Forests). The zone of eligible officers for each of the years 2001 and 2003 (sic 2002) was 33 and 27 respectively which was 3 times the number of vacancies in each year. The name of the applicant was considered at S. No. 8 in the eligibility list for the year 2001. On the basis of an overall relative assessment of his service records, the selection committee assessed him as 'very good'. However, on the basis of this assessment his name could not be included in the select list of 2001 due to the statutory limit on the size of the select list. The applicant D.P. Dwivedi was, however, not considered for promotion to IFS in the year 2002 as he had crossed the age of 54 years as on 1st January, 2002 which is the crucial date for preparation of

the select list of 2002.

5.1 In OA No. 69/2003, the name of the applicant Mr. M. Ramchandran was included in the eligibility list at S. No. 22, and the name of the respondent No. 4 was included in the eligibility list at S. No. 10. On an overall relative assessment of his service records up to the year 2000 the selection committee assessed the applicant as 'very good' for the year 2001. However, due to statutory limit on the size of the select list his name could not be included in the select list of 2001. The selection committee assessed the respondent No. 4 also as 'very good' and his name was also not included in the select list of 2001 for promotion to the IFS cadre due to statutory limit on the size of the select list. In the year 2002 the name of the applicant was at S. No. 8 in the eligibility list and on the overall assessment of his service records the selection committee assessed him as 'very good'. However, on the basis of this assessment the name of the applicant could not be included in the select list of 2002 due to statutory limit on the size of the select list. The respondent No. 4 wasconsidered at S. No. 2 in the eligibility list and was assessed as 'Very good' by the selection committee and his name was included at S. No. 8 in the select list of 2002. The applicant has crossed the age of 54 years as on 1.1.2003 and was thus not eligible for consideration for the year 2003 in accordance with the provisions of the Promotion Regulations.

5.2 In the case of Shri L.P. Tiwari in OA No. 118 of 2004 the UPSC filed the return stating that the meeting of the selection committee was held on 12th and 13th December, 2002 to prepare year wise select lists for the years 2001 and 2002 for promotion to the IFS cadre of Madhya Pradesh

in accordance with the provisions of the Promotion Regulations as amended on 25.7.2000. These select lists could not be prepared earlier due to the non-finalisation and notification of the SFS consequent to the reorganisation of the States of Madhya Pradesh and Chhattisgarh. The applicant's name was considered at S. No. 5 in the eligibility list for the year 2001 and on an overall relative assessment of his service records he was graded as 'very good' by the committee. On the basis of this assessment his name was included at S. No. 10 in the select list of 2001. The respondents No. 4 to 8 in the instant OA, who were junior to the applicant were assessed as 'outstanding' by the committee and were included at S. No. 3 to 7 in the select list. The respondent-UPSC has further stated that the procedure adopted by the selection committee for grading the officers included in the eligibility list as outstanding, very good, good and unfit has been upheld by the Hon'ble Supreme Court in the case of R.S. Das Vs. Union of India and others, AIR 1987 SC 593. The respondent No. 3 further submitted that the grading given by the reporting/reviewing officers in the ACRs reflects the merits of the officer reported upon in isolation whereas classification made by the selection committee is on the basis of a logical and deep examination of the service records of all the eligible officers in the zone of consideration. The applicant is substituting his own judgment to that of the statutorily constituted selection committee which included persons having requisite knowledge, experience and expertise to assess the service records and ability to judge the suitability of officers.

6. In view of these detailed submissions made by the UPSC and the submissions made by the respondent State

Government of Madya Pradesh, the learned counsel for the respondents submitted that these O.As. deserve to be dismissed.

7. Heard the learned counsel of parties and perused the records carefully.

8. We have carefully considered the rival contentions made on behalf of the parties. In all these cases, i.e. O.As.Nos. 16/2003, 69/2003 and 118/2004 the applicants have challenged the select list prepared for the years 2001 and 2002 by the Selection Committee in its meeting held on 12th and 13th December, 2002. As per the Promotion Regulations, a classification is to be made of the SFS officers in the zone of consideration as 'outstanding', 'very good', 'good, or 'unfit'. on an overall relative assessment of their service records. None of the applicants has been classified as 'outstanding' for the years 2001 and 2002. In the case of Shri L.P.Tiwari in OA 118/2004, although he had been included in the select list of 2001 at serial no.10, the private- respondents 4 to 8 who are junior to the applicant were assessed as 'outstanding' by the committee and were included at serial nos. 3 to 7 in the Select List and these private-respondents had superseded him in the Select List of 2001. In the case of other two applicants, they have also not been categorised as 'outstanding' and their names have not been included in the Select List for the year 2001, For the year 2002, the applicant D.P.Dwivedi in OA 16/2003 was not eligible as he had attained the age of 54 years.

9. The question for consideration in these cases is whether these applicants could be classified as 'outstanding' on the basis of their over all relative assessment of confidential reports and included in the category of 'outstanding' in the Select List.

10. In the case of applicant Shri Ramchandran (in OA 69/2003) it has been submitted that he as well as private-respondent no.4 Shri

D.K.Agrawal have been communicated the adverse remarks. The main grievance of the applicant Ramchandran is that despite the adverse remarks said Shri D.K.Agrawal has been selected whereas the applicant has been left out. We have gone through the records and we find that in the Select List of the year 2001, the applicant was considered and was placed at serial no.22 in the seniority list whereas Shri D.K.Agrawal was placed at serial no.10. Both of them were graded as 'very good' but due to statutory limit on the size of the Select List, both of them could not be included. Both of them were considered in the year 2002. In that year, the applicant was placed at serial no.8 whereas private-respondent no.4 Shri D.K.Agrawal was placed at serial no.2. Both of them were assessed as 'very good'. However, again due to the statutory limit on the size of the Select List the applicant could not be included in the Select List whereas private-respondent Shri D.K.Agrawal was selected and included in the Select panel at serial no.8, as he was much senior to the applicant Ramchandran. We have also gone through the ACR dossier of the applicant Ramchandran and Shri D.K.Agrawal and we do not find any ground to interfere with the assessment made by the ~~U.P.S.C.~~ selection committee & in respect of their over all gradings. Therefore, the contention of the applicant Ramchandran is without any basis and is accordingly rejected. In this view of the matter, we do not find any ground to grant any relief to the applicant Ramchandran, sought for by him in his OA 69/2003 and the same is liable to be dismissed.

11. As regards O.As. 16/2003 and 118/2004 filed by Shri D.P.Dwivedi and Shri L.P.Tiwari respectively, we have gone through the ACR dossiers of these applicants and private-respondents in both the O.As., namely, S/Shri A.K.Nagar, M.K.Pathak, S.K.Sharma, M.C.Singhal, R.P.S.Baghel, and U.S.Keer. We find that the UPSC in their reply in O.A.118/04 in para 8.2 have stated that "the Selection Committee which prepared the Select List of 2000 considered the service record up to 1998-99. The Selection Committee, which

prepared the select list of 2003 considered the service record up to 2001-02". In other words, for the Select List prepared for the year 2001, the ACRs up to the year 1999-2000 have been considered and for the Select List of the year 2002 the ACRs up to 2000-2001 have been considered. We have gone through the ACRs of the applicants L.P.Tiwari and D.P.Dwivedi as well as the private-respondents. We find that the records of S/Shri Shant Kumar Sharma, M.K.Pathak (except part period of 1998-99) and R.P.S.Baghel is certainly better/ superior than that of the applicants L.P.Tiwari and D.P.Dwivedi as these private-respondents have got consistently 'outstanding' grading for the last five years i.e. from 1995-96 to 1999-2000 or even eight years i.e. from 1992-93 to 1999-2000. As regards private-respondents Shri A.K.Nagar and Shri M.C.Singhal, they have not been given the 'outstanding' gradings in all these years. Shri Nagar has been graded as 'very good' in the years 1993 and part period of 1995 and Shri Singhal has been graded as 'very good' in the years 1993, 1995 and 1997 whereas the applicant D.P.Dwivedi (in OA 16/2003) has been graded as 'good" in the years 1993 and 1994 and 'very good' during the year 1995. But, during the last five years i.e. from 1995-96 to 1999-2000, he has consistently been rated as 'outstanding'. The applicant L.P.Tiwari (in O.A.118/2004) has been graded as 'very good' only in the year 1996 and he has been rated as 'outstanding' in his ACRs for the years from 1993 to 2000. Thus, the record of the applicant L.P.Tiwari is comparable to that of private-respondents Shri A.K.Nagar and Shri M.C.Singhal, who were junior to the applicant L.P.Tiwari. In the list of zone of consideration for the year 2001, applicants L.P.Tiwari and D.P.Dwivedi are placed at serial nos.5 and 8 whereas the private-respondents A.K.Nagar and M.C.Singhal were placed at serial nos.9 and 15 respectively. In any case, the ACRs of the applicant L.P.Tiwari appears to be a shade better particularly as compared to the ACRs of private-respondent Shri M.C.Singhal, who was junior to him.

12. It may be interesting to note that although the adverse remarks in the ACRs of the year 1999 in respect of Shri D.P.Dwivedi (applicant in OA 16/2003) had been expunged but in another ACR of the part period 1.4.1999 to July 1999 the same adverse remarks are again recorded by the same officer which already stand expunged vide order dated 2.1.2002. Moreover, once there is a CR for the whole period i.e. from 1.4.1999 to 31.3.2000, there was no need to write another part CR for the same year by the same officer giving the same adverse remarks. These adverse remarks are still in existence and might have been taken into consideration by the Select Committee as the said adverse remarks have not yet been obliterated from the ACR for the part period of 1.4.1999 to July 1999.

13. As regards, private respondent Shri U.S.Keer, we have also gone through his ACR and we find that he has been graded as 'average' in the years 1993, 1994 and 1995(part period), as 'good ' part period of 1995, as 'very good' in the years 1996 and 1997; 'outstanding' in the year 1998 and again 'good' in the year 1999 and 'very good' in the year 2000. But still he has been graded as 'very good' and included in the Select List by the Selection Committee for the year 2001. In any case, by any stretch of imaginagtion, the ACRs of private-respondent Shri U.S.Keer, cannot be comparable to those of the applicants D.P.Dwivedi and L.P.Tiwari, who have also been graded as 'very good' as their ACRs are far superior to those of private-respondent U.S.Keer.

14. ~~Although~~ The U.P.S.C. in their replies have stated that the assessment made by them is based on the 'uniform yardstick in a just and equitious manner and particularly with special reference to the performance of the officer during the years preceding the year in which selection committee meets'. But we find that the assessment made by the Selection Committee is not proper and objective and is highly arbitrary. It does not conform to the averments made by the

UPSC in their reply. As stated above private-respondent no.9 Shri U.S.Keer (in OA 16/03) has been given 'average' gradings in the years 1993, 1994, part period of 1995, and 'good' for the year 1999 (~~latest CR~~). The Selection Committee has classified him as 'very good' whereas the applicants D.P.Dwivedi and L.P.Tiwari, who have never been given 'average' gradings are given either 'outstanding' or 'very good' gradings for the relative period, are also classified as 'very good'. Thus, it is beyond the comprehension of a person with common prudence to consider such an assessment/ grading based on the remarks recorded in the ACRs of the applicants as well as aforesaid private-respondent as just and equitable in accordance with the provisions of the Regulations. It is true that the Tribunal is not expected to scrutinize the proceedings of the Selection Committees but in the present cases, with a view to do complete justice and to reach the truth it has done the aforesaid exercise and we find that the Selection Committee which made the assessment for the year 2001 has not conducted the selection in a fair and objective manner. If we accept the plea of the respondent-UPSC that the proceedings of the Selection Committee are totally insulated in that event this Tribunal would be reduced to a state of negation and injustice which otherwise has been done to an aggrieved party would be perpetuated. In the instant case, as stated above we find that patent material irregularities have been committed by the Selection Committee for the year 2001, which goes to the root of the matter. Therefore, the proceedings of the Selection Committee for the year 2001 are liable to be reviewed on account of the patent error committed by the committee.

15. In the result, for the reasons recorded above, O.A.69/2003 is dismissed. O.As.16/2003 and 118/2004 are partly allowed. The respondents are directed to convene a meeting of Selection Committee to review the proceedings of the Selection Committee for the year 2001 in the light of the observations made above and grant all consequential benefits, within a period of three months from the date

of communication of this order. The parties are left to bear their own costs in all these O.As.

(A.K.Bhatnagar)
Judicila Member

(M.P.Singh)
Vice Chairman

rkv