

**CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH**

**M.A. No.2208/2015
In
RA No.106/2014
O.A. No. 2009/2012**

**Reserved on:26.08.2015
Pronounced on:16.09.2015**

**HON'BLE MR. G. GEORGE PARACKEN, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

Dr. Rakesh Verma
S/o Shri M.P. Varma
Aged about 55 years
Professor & Consultant Cardiologist,
Safdarjung Hospital & V.M. Medical College
R/o 15, Wellingdon Crescent,
New Delhi-110011. ..Applicant

Applicant in person.

Versus

Union of India through

1. The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
2. Shri P.K. Pradhan, IAS
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
3. The Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public & Grievance,
North Block,
New Delhi.
4. The Secretary,

Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi.

5. Chief Vigilance Officer,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
6. Dr. Jagdish Prasad
Director General Health Services,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.
7. Shri R.S. Shukla
Joint Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi. ...Respondents

By Advocate: Shri A.K. Singh for Respondent No.1.
Shri Satish Kumar for Respondent No.6.
Ms. Joymoti for Shri Naresh Kaushik for
Respondent No.4.

ORDER

By George Paraken, Member (J)

MA No.2208/2015 In RA No.106/2014 In OA No.2009/2012

This Miscellaneous Application has been filed by the Applicant in RA No.106/2014 in OA No.2009/2012, under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987 seeking correction of the alleged typographical errors in the order dated 11.05.2015 therein. According to him, who appeared in person in this Miscellaneous Application,

part of the order dictated in the open court is missing in the signed order.

2. The brief background of this case is that the Applicant filed **OA No.2009/2012** (supra) for redressal of his grievance that he had been denied his fundamental right of consideration for promotion to the post of Additional Director General of Health Services in the Higher Administrative Grade in Central Health Service against clear vacancy for year 2005. The reliefs and interim relief sought by him in the said OA were as under:-

RELIEFS

"(i) Quash and set aside the impugned orders dated 01.03.2012 (Annexure-A-1), March 2012 (Annexure-A-2) and the action of the respondents to deprive the applicant for promotion to post of HAG (Additional Director General, Health Services).

(ii) To direct the respondents to treat the ACRs of the applicant available as Very Good in terms of the decision of Director General Health Services dated 13.11.2011;

(iii) Direct the respondent No.3 to consider the case of the applicant for promotion to the post of HAG/Addl. Director General Health Services by a Review DPC and in case the applicant found fit, the applicant may be promoted with all benefits including arrears of salary etc. w.e.f. due date with all other consequential benefits;

(iv) Direct the respondent No.1 to order Police action & departmental action against respondent No.6 & co conspirators for

tampering with the official records pertaining to the ACRs of the applicant without any authority and further direct the respondent No.1 not to allow respondent No.6 deal with any of the service matters as defined under A.T. Act, 1985 relating to the applicant;

(v) Direct the respondents to quash & set aside below bench mark observations made by respondent 6 Dr. Jagdish Prasad for the year 2007-08 and a certificate be issued in lieu of this.

(vi) Relevant office records of respondents may be called and pursued for knowing full truth & malafides done.

(vii) May also pass any further order (s), direction (s) as be deemed just and proper to meet the ends of justice".

INTERIM RELIEF

"i) Respondent No.3 be directed to withhold DPC for HAG post till a decision is taken by this Hon'ble Tribunal.

i) Respondent No.1 be directed not to involve Respondent 6 in any service matter pertaining to the applicant.

ii) Respondent No.1 be directed to keep records in a safe custody & obtain report for UPSC".

3. The aforesaid OA was disposed of by this Tribunal, vide order dated 22.05.2013. The relevant part of the said order reads as under:-

"22. We have heard the learned counsel for the Applicant, Shri G.D. Gupta, Sr. Counsel with Shri S.K.

Gupta, learned counsel for Respondents 1 to 3, Shri A.K. Singh and Shri Naresh Kaushik for Respondent No.4. We have also perused the various documents relied upon by them as part of the pleadings. From the facts as narrated by the Applicant and the statements of the Respondents in this OA, the inevitable impression we gather is that there has been serious rivalry between Applicant and the 6th Respondent, who are two higher ranking medical experts holding very senior level position under the official's respondents. The issue involved in this case is certainly not mere upgradation of the ACRs of the applicant which contain gradings below bench mark but it is much more serious. The Applicant has made direct and pointed allegations of tampering of his ACRs by his own Reviewing Officer Dr. Jagdish Prasad (Respondent No. 6) with sinister and ulterior motive. In the various representations submitted to the Respondent Department, he stated that it was Dr. Jagdish Prasad who forged and tampered with his ACRs. In one of his representations to the Secretary of the Respondent Ministry, he made the specific allegation that some time after August/September, 2010, Dr. Jagdish Prasad has tampered his ACRs of the period 2000-2001, 2001-2002-2003 and from 01.04.2003 to 25.09.2003 purposely to show them below benchmark so as to oust him from consideration for promotion to HAG for which he was awaiting at slot No.1. He has also produced copies of his aforesaid ACRs wherein Dr. Jagdish Prasad has purportedly, as Reviewing Officer, first downgraded him from "Outstanding" to "Very Good" and at a later point of

time cut the word "Very" by a line in all these ACRs to make it read as "Good" only. He has, therefore, requested the Secretary, M/o Health and Family Welfare to undo the wrong of showing the ACRs for the period 2000-2001 to 2002-03 and 01.04.2003 to 25.09.2003 below bench mark, done to him and to initiate such steps as may be necessary and called for, to investigate and to ensure that such alteration of records is not attempted to be done in future by anyone. The Secretary, Ministry of Health and Family Welfare repeatedly sought explanation from Dr. Jagdish Prasad on the aforesaid allegation made by the Applicant that he had changed the entry originally made by him as "Very Good" to "Good". He ignored the said directions of the Secretary and kept quite about the allegation of tampering/cuttings, in the ACRs of the applicant made against him. However, it is seen that at the relevant time, the Applicant was working as Senior Cardiologist in Safdarjung Hospital and Respondent No. 6 was working on the higher post of Medical Superintendent. Later, the Respondent No.6 became Director General Health Services. For the ACRs of the Applicant for the periods 2001-01, 2001-02, 2002-03 years, the Reporting Officer was Dr. B. Chakravorty and the Reviewing Officer was Dr. Jagdish Prasad. For the aforesaid periods, the Reporting Officer gave him the overall grading as "Outstanding" Dr. Jagdish Prasad in his capacity as the Reviewing Authority did not agree with the grading given by the Reporting Officer and gave him only the "Very Good" grading. He has also made the

following identical remarks in all the ACRs:-

"I do not agree with the grading given by the Reporting Officer as it is not based on the assessment of the performance of the officer. On the basis of his overall performance during the period under report, I grade him as 'Very Good'."

For the period from 01.04.2003 to 25.09.2003, Dr. Jagdish Prasad was the Reporting Officer of the Applicant and Dr. S.P. Aggarwal, DGHS was the Reviewing Officer. Dr. Jagdish Prasad initially himself graded him as "Very Good" for the aforesaid period. Since Dr. Aggarwal, by that time retired from service, he was not available to review the said ACR. From the perusal of the three ACRs of the applicant in which Dr. Jagdish Prasad was his Reviewing Officer, it appears that even though he indicated different dates in each of those ACRs, he must have written all of them at the same time, i.e., after 25.09.2003. However, for the period from 01.04.2005 to 31.03.2006 and from 01.04.2006 to 31.10.2006 the applicant was again graded as "Outstanding" by both the respective Reporting and Reviewing Officers. Dr. Jagdish Prasad again became the Reporting Officer of the Applicant for the year 2007-08 and on the expected lines he graded him as "Good" which is below bench mark.

23. Coming back to the allegation of forging and tempering with the ACRs of the applicant, when Dr. Prasad did not give his explanation of the accusation and allegations made by the applicant and pointed out by the then Secretary, M/o Health and Family

Welfare he referred the matter to them Director General of Health Services and considering the documents available on record he came to categorical conclusion that the ACRs of the applicant for the period from 2000-2001 to 2002 to 2003 and from 01.04.2003 to 25.09.2003 have been tampered. The Director General has also observed the uniform pattern adopted in tempering with those ACRs. Further, the said Director General has recommended to treat the aforesaid ACRs are having the original grading of "Very Good". Alternatively, he has recommended that those "ACRs can be set aside for DPC purposes". Suddenly, Dr. Prasad who has been keeping a studied silence so far in the matter got up to object to the aforesaid recommendation of the Director General and opposed the proposed upgradation to "Very Good" level and "to keep away those ACRs from DPC".

24. In spite of all the above developments, the official respondent tried to view the entire matter as a routine case of ACRs with below Bench mark gradings, in terms of the instructions issued by the DoP&T vide its OM No. 21011/1/2010-Estt.A dated 13.04.2010. Accordingly, they communicated the aforesaid four ACRs of the applicant **vide** OM dated 15.10.2010 seeking his representation, if any. They feigned ignorance about the various complaints made by the applicant about forging and tampering with the aforesaid ACRs and no action taken by themselves in the matter thus far. While the Respondents being the custodian of the ACRs, having the responsibility of maintaining their

confidence and keeping them secure from the interference of the outsiders and unauthorized persons, as if they are dealing with a very insignificant matter, they have submitted in the reply affidavit that the change of grading from "Very Good" to "Good" was done based on the performance and conduct of the applicant.

25. We, in the above facts and circumstances, are of the considered view that the aforesaid ACRs for the year 2000-01, 2001-02, 2002-03 and 01.04.2003 to 25.09.2003 cannot be treated as ACRs containing below Bench mark but as ACRs which have been tampered with by alternating the gradings in those ACRs by an unauthorised person with the sinister purpose of preventing the applicant from getting his due promotions in time. An ACR of an employee which has been forged and tampered with is a non-existent ACR in its original form and, therefore, it has to be treated accordingly for all intents and purposes. Hence, the impugned OM of the respondents dated 01.05.2012 calling upon the applicant to make representation for upgradation of his grading in the ACRs for the period of 2000-01 to 2002-03 and 01.04.2003 to 25.09.2003, in terms of DoP&T's OM No. 21011/1/2010-Estt(A) dated 13.04.2010 is quashed and set aside.

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XXX

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32. In view of the above legal position, since the applicant's case is not covered by the aforementioned three eventualities for the present, he cannot be denied vigilance clearance. Hence, the 2nd impugned

Memorandum dated nil March, 2012 to the extent it says that the applicant "cannot be said to be clear from vigilance angle" is quashed and set aside.

33. As regards the 3rd impugned order dated 21.05.2012 communicating the below bench mark ACR of the applicant in respect of the applicant for the period 2007-2008 is concerned, it cannot be considered in isolation as the same has been written by Dr. Jagdish Prasad who has unauthorizedly tampered with the ACRs of the applicant for the year 200-2001 to 2002-2003 and 01.04.2003 to 25.09.2003. As Dr. Jagdish Prasad is totally biased against the applicant, his assessment of the applicant for the year 2007-2008 cannot be objective. The only "difference between the earlier 4 ACRs and the present ACR is that in the earlier ACRs Dr. Jagdish Prasad had originally graded the applicant as "Very Good" and later on unauthorizedly tampered with them to make it the below bench mark grading of "Good" but in the ACR for 2007-2008, he straight away made it as "Good". Therefore, for the same reason, the ACR for the year 2007-2008 cannot be taken into consideration for any intent and purposes including promotion to the higher post. Accordingly, the order dated 21.05.2012 is also quashed and set aside.

34. As regards the prayer of the Applicant to direct the Respondents to consider his case for promotion to HAG, it is sent that the Applicant himself in his reply has stated that he is being considered for promotion to

HAG by a review DPC for the year 2005-06 as his junior in the original panel for the year 1991-92 has already been promoted. Therefore, no specific directions with regard to this prayer is required.

35. As regards the prayer of the Applicant to order police/departmental action against the Respondent No.6 is concerned, in our considered view it cannot be entertained, as the same is not within the jurisdiction of this Tribunal and accordingly it is rejected.

36. With the aforesaid directions/observations, we partly allow this OA. The stay order dated 13.03.2012 to the Respondent-UPSC against holding the DPC/Review DPC also stands vacated.

37. There shall be no order as to costs".

4. Thereafter, on the request of the Respondent-Ministry of Health and Family Welfare, a review DPC for promotion to the Higher Administrative Grade of Additional DGHS in respect of the Applicant pursuant to the aforesaid directions of this Tribunal dated 22.05.2013 was held on 26.03.2014. In the review DPC, his ACRs for the year 2000-01, 2001-02, 2002-03 and 2003-04 and (01.04.2003 to 25.09.2003) were ignored and his ACRs of the preceding five years, i.e. 1996-97, 1997-98, 1998-99, 1999-2000 and 26.09.2003 to 31.03.2004 were considered. The regular DPC held on

18.06.2014 for the vacancy years 2006-07, 2008-09 and 2009-10 also ignored the ACRs for the aforesaid periods.

5. When the Applicant came to know that he has not been recommended for promotion by the Review DPC as well as the regular DPC, he filed RA No.106/2014 stating that the aforesaid 2nd relief to direct the Respondents to treat his available ACRs as "Very Good" in terms of the decision of Director General, Health Services dated 13.11.2011 and the 4th relief to direct the Respondent No.1 to order Police action as well as departmental action against Respondent No.6 and co-conspirators sought by him in the OA were not considered by this Tribunal.

6. He has, therefore, sought the following reliefs in the said Review Application:-

"(i) Review the order dated 22.05.2013 (Annexure RA-1) passed in OA No.2009/2012 and grant the relief as prayed in para 8(iv) to the extent as referred to above i.e. respondent no.1 be directed not to allow respondent no.6 to deal with the any files or any service related matter of the applicant;

(ii) clarify the position about the relief 8(ii) as prayed in the OA; by declaring impugned ACR's granding as "Very Good" or alternatively declaring grading granted by reporting officer as final grading & disregarding review officer's grading having tampering for years 2000-2003.

(iii) may also pass any further order(s) as be deemed just and proper to meet the ends of justice."

7. According to the Applicant, the Respondent-Ministry of Health and Family Welfare referred the aforesaid judgment of this Tribunal to the Ministry of Law and Justice, Department of Legal Affairs and based on their advice dated 19.06.2013, it was decided to treat the ACRs for the period 2000-01, 2001-02, 2002-03 and 2003-04 and (01.04.2003 to 25.09.2003) to be treated as "Very Good" and UPSC was also requested to convene the review DPC. However, the UPSC, vide its letter dated 20.08.2013, stated that it was of the view that the aforesaid decision of the Respondent-Ministry of Health and Family Welfare to treat those ACRs as "Very Good" was not in conformity with the aforesaid directions of this Tribunal.

8. In reply to the aforesaid RA, the Respondent-UPSC has submitted that in compliance of the Tribunal's order dated 22.05.2013, review DPC was held on 26.03.2014 and considered the case of the Applicant after ignoring his ACRs for the period 2000-01, 2001-02, 2002-03 and 2003-04 and (01.04.2003 to 25.09.2003). They have, therefore, submitted that the RA was not maintainable and it is to be dismissed.

9. The Respondent-Ministry of Health and Family welfare and Others have also filed the reply stating that admittedly, the ACRs of the Applicant for the years 2000-01, 2001-02, 2002-03 and 2003-04 and (01.04.2003 to 25.09.2003) were below the benchmark and they were communicated to him when his case for promotion to the HAG was being considered. Further, according to them, due to the delay in communicating those ACRs, the utility of such procedure has been lost and, therefore, those ACRs cannot be considered for determining the eligibility of the Applicant for promotion.

10. The Respondent No.6, Dr. Jagdish Prasad has also filed a reply stating that the Applicant was trying to reargue the issue with regard to below benchmark ACRs in the garb of Review Application and, therefore, he has submitted that the same is liable to be rejected.

11. After detailed consideration of the submissions made by the Review Applicant as well as the Respondents, this Tribunal, vide order dated 01.05.2015, condoned the delay in filing the Review Application but dismissed the Review Application on the ground that after the order of this Tribunal dated 22.05.2013, the UPSC and Respondent No.1 had taken their stand and, therefore, the UPSC has convened review DPC on 18.06.2014. The UPSC has also

conveyed their decision to the Respondent No.1 on 31.03.2014. This Tribunal has also observed that whether the stand taken by the UPSC was right or wrong, it can be adjudicated only through fresh Original Application. Accordingly, this Tribunal dismissed the RA with liberty to the Review Applicant to challenge the aforesaid letters of the UPSC and the DPC held subsequently.

12. In this Miscellaneous Application, the Applicant has stated that in the aforesaid order dated 01.05.2015 of this Tribunal in the Review Application the following words were dictated in the open court but are missing in the signed copy:-

“.....even otherwise, the review application is to be dismissed as this Tribunal has already held in para 25 of order dated 22.05.2013, that the impugned ACRs for the years 2000 to 2004 do not contain below benchmark grading and that these ACRs cannot be ignored.....”

13. The Respondent-UPSC has filed their reply in the present Miscellaneous Application stating that the Applicant cannot insert his own imaginary words in the order dated 01.05.2013 and he is not justified in putting the blame on this Tribunal. The Respondent-Ministry in its reply stated that there is no such provision in Rule 24 of the CAT

(Procedure) Rules, 1987 to modify/review the earlier order but under Rule 24, this Tribunal has got inherent jurisdiction which is not otherwise provided elsewhere. They have also stated that the power of this Tribunal for review/modification has been clearly provided in Section 17 of the CAT (Procedure) Rules, 1987. Further according to them, the Applicant was only making an attempt to re-argue the RA No.106/2014 decided on 01.05.2015. They have also stated that liberty has been granted to the Applicant to file a fresh OA. Thus they have also submitted that this MA is liable to be dismissed.

14. We have heard the Applicant who appeared in person and the learned counsel for the Respondent No.1 Shri A.K. Singh, learned counsel for the Respondent No.6 Shri Satish Kumar and the learned counsel for Respondent No.4 Ms. Joymoti for Shri Naresh Kaushik and considered their submissions. The crux of the issue in the Review Application as well as in the present Miscellaneous Application is with regard to the interpretation of the order of this Tribunal dated 22.05.2013 in OA No.2009/2012 particularly about treating the ACRs of the Applicant for the period from 2000-01, 2001-02, 2002-03 and 2003-04 and (01.04.2003 to 25.09.2003). The unambiguous factual findings of this

Tribunal in the aforesaid order were that the Reporting Officer of the Applicant for the period 2001-2002, 2002-03 and 2003-04 was Dr. B. Chakravorty and he graded him "Outstanding" and Dr. Jagdish Prasad in his capacity as the Reviewing Authority did not agree with the said grading and reduced it to "Very Good". Thus, final grading in those ACRs was treated as "Very Good". For the period from 01.04.2003 to 04.09.2003, Dr. Jagdish Prasad himself was his Reporting Officer and he graded him "Very Good". Later on, Dr. Jagdish Prasad tampered his ACRs of the period 2000-2001, 2001-2002-2003 and from 01.04.2003 to 25.09.2003 purposely to show them below benchmark so as to oust him from consideration for promotion to HAG for which he was awaiting at slot No.1. Therefore, since tampering with the aforesaid ACRs was established, after removing the tampering, the "Very Good" gradings in those ACRs get restored and they have to be treated accordingly. The Director General, Health Services had also recommended to treat the aforesaid ACRs are having the original grading of "Very Good". This Tribunal has, therefore, held that the aforesaid ACRs for the year 2000-01, 2001-02, 2002-03 and 01.04.2003 to 25.09.2003 cannot be treated as ACRs containing below Bench mark but as ACRs which have been

tampered with by alternating the gradings in those ACRs by an authorised person with the sinister purpose of preventing the applicant from getting his due promotions in time. An ACR of an employee which has been forged and tampered with is a non-existent ACR in its original form and, therefore, it has to be treated accordingly for all intents and purposes.

15. On receipt of the aforesaid order of this Tribunal dated 22.05.2013, the UPSC, vide its letter dated 26.06.2013, informed the Ministry of Health and Family Welfare that the ACRs for the period 2000-01, 2001-02, 2002-03 and 1.4.2003 to 25.09.2003 are to be treated as non-existent ACRs and the ACRs of the previous years are to be taken into account to complete the matrix of five years. The Respondent-Ministry sought legal opinion on the aforesaid findings of this Tribunal from the Competent Authority, namely, Government of India, the Ministry of Law and Justice, Department of Legal Affairs. Their advice was that "alteration committed by the reviewing authority results the relevant ACRs as non-existent which will debar the petitioner from getting benefit of promotion if considered. Resultantly the O.M. dated; 01.05.2012 has been quashed which was carrying the "Good" grading marring to his interest. Total exercise concludes that the ACRs involved in this O.A be

treated as "Very Good". Thereafter, the Ministry of Health and Family Welfare, vide its letter dated 08.07.2013, conveyed the approval of the Competent Authority to the UPSC and requested it to convene the Review DPC to consider the case of the Applicant urgently as directed by this Tribunal treating his ACRs for the period 2000-01, 2001-02, 2002-03 and 01.04.2003 to 25.09.2003 as "Very Good". But the UPSC, vide its letter dated 20.08.2013 informed the Ministry of Health and Family Welfare that it was "of the view that the decision of the Ministry to treat the ACRs for the period 01.04.2003 to 25.09.2003 as 'Very Good'. ACRs for the aforesaid period is not in conformity with the direction of Hon'ble CAT as contained in para 25 and 26 of the judgment dated 22.05.2013" and went ahead with the Review DPC as well as regular DPC. Of course the Applicant was not recommended for promotion as his ACRs of the years prior to 2000-01 were not upto the benchmark. We cannot say the UPSC was entirely wrong. From the wordings contained in the aforesaid order of this Tribunal, it is possible for them to interpret that the relevant ACRs themselves were to be treated as non-existent instead of the forging and tampering in those ACRs alone.

16. It was at that stage that the applicant had filed R.A 106/2014. His contention was that some of the reliefs sought by him in the O.A particularly the prayers for a direction to the Respondents to treat his available ACRs "Very Good" in terms of the order of the Director General, Health Services dated 13.11.2011 and to order Police action and departmental action against respondent No.6 and co-conspirators for tampering with the official records pertaining to his ACRs without any authority and not to allow the said respondent to deal with any of the service matters relating to him. This Tribunal dismissed RA without going into its merit mainly for the reason that pursuant to the aforesaid order of this Tribunal, the UPSC has already held the Review DPC/Regular DPC and their outcome is already available. But the said order shall not deter this Tribunal to consider this Miscellaneous Application filed under Rule 24 of the "Central Administrative Tribunal (Procedure) Rules, 1987" as its scope is different from that of Application for Review. The said Rule is as under:-

"24. Order and directions in certain cases

This Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.

17. In our considered view, the reasons given by the applicant in this M.A. cannot be appreciated. During the course of the argument of any case, the court may make some observations to find the actual facts. All such observations may not find place in the order dictated in the court or written later after reserving it. Since the Applicant was appearing in the matter in person, he may not be aware of the aforesaid position. Therefore, we do not find fault with the Applicant, particularly when the aforesaid observation stated to have been made by this Tribunal during the course of the argument is factually correct. As stated by the Applicant, in Para 25 of this Tribunal's order dated 22.05.2013 it was held that "the aforesaid ACRs for the year 2000-01, 2001-02, 2002-03 and 01.04.2003 to 25.09.2003 cannot be treated as ACRs containing below Bench mark but as ACRs which have been tampered with by alternating the gradings in those ACRs by an unauthorised person with the sinister purpose of preventing the applicant from getting his due promotions in time".

18. Under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987, this Tribunal has the power to make such orders or give such directions as may be necessary or expedient to give effect to its order or to

prevent abuse of its process or to secure the ends of justice.

The said rule corresponds to Section 151, CPC which lays down that nothing in that Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Court. Therefore, if the order dated 22.05.2013 in the OA or the order dated 11.05.2015 in RA come in the way of securing the ends of justice to the parties in the lis, this Tribunal is duty bound to make such orders or directions. In our considered view, the order of this Tribunal dated 22.05.2013, as understood by the UPSC, prevents justice being secured in the case. Therefore, to serve the ends of justice, we clarify that the "Very Good" gradings in the ACRs of the Applicant for the period 2000-2001 to 2002-2003 and 01.04.2003 to 25.09.2003 admittedly earned by him do not become non-existent because of the unauthorised tampering made in them and only those tamperings become non-existent which are not to be taken into consideration for any intent and purposes. In view of aforesaid observations/clarification, this MA No.2208/2015 is disposed of with the direction to the Respondents-UPSC and the Ministry of Health and Family Welfare to hold fresh Review DPC/Regular DPC at the

earliest by considering the aforesaid ACRs as they stood before tampering. There shall be no order as to costs.

(SHEKHAR AGARWAL)
MEMBER (A)

(G. GEROGE PARACKEN)
MEMBER (J)

‘Rakesh’