

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00981/2010**

Jabalpur, this Friday, the 03<sup>rd</sup> day of August, 2018

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Upendra Nath Sharma  
S/o Shri D.D. Sharma  
Aged about 51 years  
R/o 112-C, Govindpuri  
Gwalior (M.P.) 474001  
Jt. Commissioner,  
Moti Mahal Gwalior

**-Applicant**

(By Advocate –**Shri Swapnil Ganguly**)

**V e r s u s**

1. Union of India, Through its Secretary,  
Ministry of Personnel, Public Grievances  
And Pensions South Block Department of  
Personnel and Training New Delhi 110001

2.Union Public Service Commission  
Through its Secretary, Dholpur House  
New Delhi 110001

3. State of Madhya Pradesh  
Through the Secretary,  
General Administration Department  
Mantralaya Vallabh Bhavan,  
Bhopal (M.P.) 462001

4. Mathuresh Babu Ojha Dept. Secretary  
Govt. of Madhya Pradesh  
Notices through Secretary  
General Administration Department  
Mantralaya Vallabh Bhavan  
Bhopal (M.P.) 462001

**- Respondents**

(By Advocate –**Shri S.P. Singh for respondent No.2-U.P.S.C.,  
Shri Vijay Pandey for respondent No.3-State of M.P. & Shri  
Vijay Tripathi for respondent No.4)**)

**ORDER (Oral)****By Navin Tandon, AM:-**

The applicant is an officer of State Administrative Service (batch of 1984). He is aggrieved by the fact that he was not granted induction into Indian Administrative Service (IAS) in the year 2007 and 2008, when his batchmates and juniors were inducted into IAS.

2. The undisputed facts of the case are that while respondent No.2 (UPSC) convened the Selection Committee for 2007 and 2008, the applicant was declared in “Very Good” category for the year 2007 and “unfit” for the year 2008.

2.1 It has been stated by UPSC that the ACRs of 2001-02 to 2005-06 and 2002-03 to 2006-07 were considered for the eligibility of the officers for the year 2007 and 2008 respectively.

2.2. In the year 2007, even though he was graded as ‘Very Good’ the selection committee has not recommended his name due to statutory limit on the size of selection list.

3. The applicant in this Original Application has sought for the following reliefs:-

**“8. Relief Sought:-**

*Applicant, therefore, humbly prays that this Hon’ble Court may kindly be pleased to:*

*8.i) Summon the entire material record pertaining to the instant controversy from the respondents for its kind perusal.*

8.ii) *Direct the respondents to hold review DPC for induction to IAS for the vacancy of 2008.*

8.iii) *Direct the respondents to examine the anomaly in the assessment of applicant in the D.P.C. to be held for the year 2008 (Annexure A/3) and the respondents may be directed to adopt a fair procedure in accordance with law.*

8.iv) *Direct the respondents for not taking into account of the A.C.R. for the year ending 2007 of applicant in accordance with the judgment given by Hon'ble Apex Court in Dev Dutt and Abhijeet Ghosh Dastidar case while assessing the suitability of applicant for induction into I.A.S. for the year 2008.*

8.v) *Grant any other reliefs, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.*

8.vi) *Award the cost the instant lis to applicant."*

4. It is the case of the applicant that the applicant did not receive any adverse remarks from the respondents. He submits that in view of the judgment of Hon'ble Apex Court in the case of **Dev Dutt vs. Union of India** (2008) 8 SCC 725 the adverse remarks, if any, against the applicant cannot be acted upon in the absence of any communication.

5. We have considered the matter and observed that in the case of **Atul Kumar Jain vs. Indian Oil Corporation Ltd.** passed by the Hon'ble High Court of Madhya Pradesh in Writ Petition No.9087 of 2006, decided on 23.02.2010, wherein the petitioner had challenged his supersession in the year 2004-2005. The Hon'ble High Court after relying on the decision of **Dev Dutt** (supra) allowed the said Writ Petition in terms of the directions in the

matter of **Dev Dutt** (supra). We have also relied upon the decision passed by this Tribunal in O.As. Nos.736/2008, 751/2008 decided on 28.08.2012 as well as in O.A. No.200/591/2010 decided on 03.08.2018.

6. As the instant case is fully covered by the above decision, this Original Application is disposed of by directing respondent No.3 (State of M.P.) to give copy of all the ACRs/APARs which were considered for induction into IAS in the year 2008 to the applicant, within 30 days from the date of receipt of certified copy of this order. The applicant is at liberty to file his representation against the said ACRs/APARs, if any, within a period of 30 days thereafter. Accordingly, the respondent No.3-State of M.P. shall decide his representation within further 60 days thereafter. In case there is any improvement in the ACR/APAR then the State of M.P. shall send the case to the UPSC to convene a review DPC for the year 2008 within 30 days thereafter. UPSC shall take further necessary action to convene review DPC, if so required, within 60 days thereafter.

7. The Original Application is accordingly disposed off.

**(Ramesh Singh Thakur)**  
**Judicial Member**  
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**(Navin Tandon)**  
**Administrative Member**