

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.260/157/2014

Date of Reserve:25.02.2019

Date of Order: 08.04.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Debraj Senapati, aged about 56 years, S/o. Late Ekadashi Senapati, At-N-3/67, IRC Village, Nayapalli, Bhubaneswar – at present working as Additional Secretary to Government of Odisha, Housing & Urban Development Department, Odisha, Bhubaneswar.

...Applicant

By the Advocate(s)-Mr.K.C.Kanungo
Ms.C.Padhi

-VERSUS-

Union of India represented through:

1. The Secretary to Government of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, North Block, New Delhi.1
2. Union Public Service Commission represented through its Secretary, UPSC, Dholpur House, Sahajahan Road, New Delhi.1
3. State of Odisha, represented through its Chief Secretary to Government of Orissa, Bhubaneswar, Dist-Khurda.
4. The Special Secretary to Government, general Administration Department, Secretariat, Bhubaneswar.
5. Dr.K.K.Paul, Member and President of the Selection Committee, UPSC, Dholpur House, Sahajahan Road, New Delhi.1
6. Shri B.K.Patnaik, IAS, Ex-Chief Secretary to Government of Odisha and Member of the Selection Committee, Secretariat, Bhubaneswar, Dist-Khurda.
7. Shri Priyabrata Patnaik, IAS, Additional Chief Secretary & Secretary, PG & PA Department, Govt. Of Odisha and Member of the Selection Committee, Secretariat, Bhubaneswar.
8. Shri Vivek Joshi, Joint Secretary to Government of India, Ministry of Women and Child Development and Member of the Selection Committee, New Delhi.
9. Shri Yashpal Singh, IAS, Joint Secretary to Government of India, Ministry of Minority Affairs, Member of the Selection Committee, New Delhi.

10. Shri Biswanath Mallick-I, IAS Additional Secretary Cooperation, Government of Odisha, Cooperation Department, Secretariat, Bhubaneswar.
11. Shri Anand Chandra Sial, IAS, Additional Secretary to Government of Odisha, Labour and ESI Department, Secretariat, Bhubaneswar.
12. Shri Mahendra Kumar Mallick, IAS, District Magistrate and Collector, Boudh.
13. Shri Pravakar Pradha, IAS, Registrar, OUAT, Bhubaneswar.
14. Shri Willium Bilung, IAS, Additional Secretary to Government of Odisha, Science and Technology Department, Additional Charge Chief Executive OREDA, Bhubaneswar.

...Respondents

By the Advocate(s)-Mr.R.C.Swain

Mr.J.Pal

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant, at the time of filing this Original Application was working as Additional Secretary to Government of Odisha, Housing & Urban Development Department. He has approached this Tribunal in this O.A. being aggrieved by his non-selection to Indian Administrative Service (for short IAS) against the vacancies of the year 2011. At the same time, he has also challenged the selection and appointment of Private Respondents to I.A.S. stating the same as violative of rules and regulations. He has therefore, prayed for the following reliefs:

- i) ...to quash the Minutes of the recommendation made in favour of Respondent Nos. 10 to 14 especially down grading the ACRs/CCRs of the Officers without proper assessment and reason and without following the provision 2(g) (ii) of the Rules and 2(i)(ii) of the Regulation in Annexure-A/8.
- ii) ...to quash the order of appointment of Respondent Nos. 10 to 14 dated 16.1.2013 in Annexure-A/9.
- iii) ...to direct the Respondents to consider/reconsider/review the ACRs/CCRs of the SCS Officers/recommendation of the Selection Committee and consider/reconsider officers fulfilling the conditions stipulated in 2(g)(ii) of the Rules and 2(j)(ii) of the regulation.

- iv) ...to direct the Respondents to consider/reconsider the case of the applicant for appointment to IAS against one of the vacancies of the year 2011 and appoint him to IAS retrospectively with all consequential service and financial benefits.
- v) ...to pass any other order/orders as deemed fit and proper and to allow this OA with costs.

2. Briefly stated, facts of the matter are that the applicant is a Direct Recruit Odisha Administrative Service (in short OAS) Class II Officer. During his service, he had worked in various capacities as Block Development Officer in different Blocks and successfully implemented the developmental schemes under Panchayati Raj Department. During his posting to Revenue & Disaster Management Department, he had attained many commendations in the area of his working. Subsequently, he promoted to OAS-I (Jr.Branch in the year 1995.

3. Grievance of the applicant is that for the year 2011, against the nine vacancies of IAS under promotion quota, names of 27 State Civil Services Officers (OAS-I) including his were recommended for consideration by the Committee. Accordingly, the Selection Committee met on 31.08.2012 to consider the cases for promotion in which the Committee made overall relative assessment of the service records ACRs/CCRs and graded the officers as Very Good, Good and Unfit without assigning any reason or making any relative assessment. According to applicant, his performance having been assessed, he was rated "Very Good" notwithstanding the fact that he had three consecutive "Outstanding" and two "Very Good" in the preceding ACRs/CCRs, besides several commendations. The applicant has pointed out that the Committee recommended the names of nine State Civil Services Officers, who are senior to him, of which five officers were appointed to IAS

as against the nine vacancies for the year 2011. According to applicant, the Selection Committee without any rhyme or reason threw to the winds the ACRs and commendations earned by him during his service career by a stroke of pen and rated him as "Very Good". Thus, he has pleaded that the Selection Committee utterly failed to act within the meaning of the provisions of IAS(Appointment by Promotion) Regulations, 1955 and the guidelines issued by the UPSC from time to time inasmuch as none of the officers appointed to IAS had ever been posted and/or discharged the duty for the purpose of revenue and general administration in a Sub Division of a District or in a post of higher responsibility. According to applicant, the rest four vacancies are not being filled up due to various reasons nor the Selection Committee meeting held for the years 2012 and 2013.

4. As it reveals from the record, earlier, the applicant had approached this Tribunal in O.A.No.708 of 2013 challenging his non-selection to IAS. This Tribunal vide order 11.11.2013 disposed of the said O.A. with direction to Respondent Nos. 1 to 4 to consider the representation submitted by the applicant with reference to the rules and various provisions in force on the subject and communicate the result thereof to the applicant in a well reasoned order within a stipulated time frame. In pursuance of this order, the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training (Res.No.1) vide letter dated 6.12.2013(A/2) addressed to the Secretary, Union Public Service Commission (Res.No.2) indicated as follows:

"3. It may be seen from the details given above that the crux of the present matter revolves around the assessment of the service records of the applicant, which primarily comes under the purview of the UPSC and the State Government. A copy of the said order is forwarded herewith for further necessary action, keeping in view the time for disposal

given by Hon'ble CAT and the fact that the same representation dated 5.9.2013 has also been addressed to the Commission".

5. While the matter stood thus, the General Administration Department, Government of Odisha vide letter dated 6.12.2013(A/3) addressed to the Secretary, UPSC, New Delhi (Res.No.2) highlighting the grievance of the applicant as raised in his representation, stated as follows:

"From the above it appears that the allegations made by the applicant relates to the UPSC mainly though State Government is partly involved. Hence the copy of the order passed by the Hon'ble CAT in OA No.708/2013 along with the representation addressed to the UPSC (Annexed in the OA at P.24-19/C) is sent to the Commission for taking appropriate action at your end".

6. Thereafter, Respondent No.2 (UPSC) communicated its decision to the applicant vide A/4 dated 02.01.2014, the relevant part of which reads thus:

"4. It is further mentioned that against 9 vacancies for the Select List of 2011, 28 officers were considered. One officer was considered in addition to the zone of consideration under 1st proviso to Reg. 5(3). Your name was considered at S.No.22 in the zone of consideration. The Selection Committee during its meeting went through the service records of all the eligible officers in the zone of consideration from the period 2006-07 to 2010-12. On the basis of assessment of your service records for the above period, the Selection Committee assessed you as 'Very Good'. In view of the above, your name was not recommended by the Selection Committee as officers with same overall grading who were senior to you were available and also due to statutory limit on the size of the Select List.

5. With reference to para 2(ii), it is mentioned that the preparation of the eligibility list falls under the sole purview of the State Government. Therefore, you are requested to take up the matter with them directly".

7. Aggrieved with the above, applicant has filed the present O.A. praying for the reliefs as mentioned above.

8. The ground on which the applicant has sought for relief mainly is that the overall relative assessment made by the Committee rating him as "Very Good" is without having regard to the provisions laid down in 2(g) (ii) of the Rules and 2(i)(ii) of the IAS (Appointment by Promotion) Regulations, 1955 and as such, the same is liable to be struck down.

9. Contesting the claim of the applicant, Official Respondents have filed their independent counter. In the counter filed by the Government of India, Department of Personnel & Training (Res.No.1), it has been pointed out that the subject matter of OA, i.e., grading and assessment of service records and recommendation for inclusion in the select list comes under the purview of the State Government and the UPSC. Appointment to I.A.S. can be made only after the name of an SCS officer stands included in the select list being duly approved by the UPSC. In view of this, it has been pointed out that Respondent No.1 has no role to play in so far as assessment of service records is concerned.

10. Respondent No.2, i.e., U.P.S.C. has filed a detailed counter. According to Respondent No.2 after receipt of the required documents, viz., Seniority List, Eligibility List (upto a maximum of three times the number of vacancies) of the State Service Officers, Integrity Certificates, Certificates regarding disciplinary/criminal proceedings, certificate regarding communication of adverse remarks, details of penalties imposed on the eligible officers, complete ACR dossiers of the eligible officers etc. along with the proposals, those are examined by the Commission for completeness and deficiencies resolved, whereafter those are placed before the Selection Committee. The Committee in accordance with the provisions of Regulation 5(4) of the Promotion Regulations classifies the eligible State Civil Officers included in the zone of consideration as 'Outstanding', "Very Good", "Good" or "Unit", as the

case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(5), 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 State Civil Service. It has been submitted that as per the provisions of Regulation 6 and 6-A of the Promotion Regulations, the State Government and the Central Government are required to furnish their observations on the recommendations of the Selection Committee. After taking into consideration the observations of the State Government and of the Central Government and the requisite records received from the State Government, the Commission takes a final decision on the recommendations of the Selection Committee with or without modification in terms of the provisions of Regulation-7. The appointments to the IAS are made from the Select List by the Government of India, Department of Personnel & Training. According to Respondent No.2 the Committee considered 27 SCS officers within the zone of consideration in respect of vacancies for the year 2011. The applicant was at Sl.No.22 in the zone of consideration. After examination of service records, the Committee assessed him as "Very Good" for the Select List 2011. On the basis of this assessment, his name could not be included in the Select List 2011 as senior officers within the same grading were available.

11. In the counter filed by the State Government of Odisha (Res.Nos. 3 & 4), it has been submitted that the State Government have not prepared the zone of consideration/eligibility list in accordance with rule 2(g)(ii) of the

IAS(Appointment by Promotion) Regulations, 1955. The zone of consideration has been prepared as per regulation 5(1) & 5(2) of the said Regulations. The Selection Committee presided over by the Member of the UPSC as Chairman with high dignitaries of the State Government and of Union of India which considered the selection of the State Civil Services Officers of Odisha for promotion to IAS on the basis of the proposal and relevant records furnished by the State Government including the Seniority List and other records. It has been pointed out that the applicant has no right to claim promotion and conversely, his right to consideration for promotion has not been infringed by the respondents.

12. Private Respondent Nos. 4 to 14 although duly noticed, have not filed any counter.

13. Applicant has filed rejoinders separately to the counters filed by the official Respondents. In the rejoinder to the counter filed by Res.No.2, it has been submitted that Indian Administrative Service(Recruitment) Rules, 1954 prescribes detailed procedure with regard to the promotion of the Member of the State Civil Services to Indian Administrative Service by way of Selection. The State Civil Service as stipulated in Rule-4 is defined under Rule-2 (g) (ii) of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955 which provides that QUOTE 2 (j)(ii) in all other cases, any service or services approved for the purpose of these rules by the Central Government in consultation with the State Government, a member of which normally holds for purposes of revenue and general administration charge of a sub-division of a district or a post of higher responsibility UNQUOTE.

14. Applicant has submitted that in pursuance of Sub Rule (1) of Rule 6 of the IAS (Recruitment) Rules, 1954, the Central Government in consultation

with the State Government and UPSC prepared Regulation viz: Indian Administrative Service (Appointment by Promotion) Regulation, 1955. Regulation-2(j) (ii) also provides a parimateria and identical provision with regard to Rule 2(g) (ii). The Regulation-3 further provides and authorizes the UPSC to constitute a Committee in order to recommend the best suitable officers of the State Civil Service for promotion to IAS.

15. In support of his contentions, the applicant has placed reliance on the decision of the Hon'ble Supreme Court in Bhavnagar University vs. Palitana Sugar Mill (P) Ltd. (2003) 2 SCC 111, which lays down that "when a statutory authority is required to do a thing in a particular manner, the same must be done in that manner or not at all. The State and other authorities while acting under the statute is only creature of statute. They must act within the four corners thereof".

16. According to him, the Constitution Bench of the Hon'ble Supreme Court in G.Sadanandan vs. State of Kerala & Anr. (AIR 1966 SC 1925), the Hon'ble Supreme Court has held that "if all the safeguards provided under the Statute/Regulations are not observed, an order having serious consequences is passed without proper application of mind, having a casual approach to the matter, the same can be characterised as having been passed mala fide and thus, is liable to be quashed".

17. The applicant has also relied on the decision in Balaram Kumawat vs. Union of India & Ors. (2003 (7) SCC 628 in which the Hon'ble Supreme Court has laid down the law that "when a power is conferred upon an authority or body there would be a legal presumption that the body/authority would be conscious of his/their duty and would perform it and act accordingly".

18. In Krishna Swami vs. Union of India & Ors. (AIR 1993 SC 1407), it has been held by the Hon'ble Supreme Court that "reasons are the links between the material, the foundation for their erection and the actual conclusions. They would also demonstrate how the mind of the maker was activated and actuated and their rational nexus and synthesis with the facts considered and the conclusions reached. Least it would be arbitrary, unfair and unjust violating Article 14 of unfair procedure offending Article 21..."

19. Further, relying on the decision of the CAT, Principal Bench in Sujan Singh vs. UOI and Khetrabasi Biswl vs. UOI it has been submitted by the applicant that on judicial scrutiny of the minutes of the Selection Committee, it cannot be said that the down gradation is supported by reason or is the correct decision without due application of mind which is beyond the suspicion. Hence, the down gradation of the remarks in respect of the applicant thereby eliminating from the recommended list for appointment to IAS and giving path to others is not sustainable in the eyes of law and is liable to be set aside.

20. Based on the above decisions, the applicant has pointed out that on a harmonious reading of the provisions made in 2(j)(ii) of Regulation, 1955, guidelines issued by the UPSC vis-a-vis the minutes of the selection, it cannot be said that the recommendation made by the Selection Committee is bona fide exercise of power. Hence, the appointment made based on the recommendation of the Selection Committee held on 31.01.2012 should be set aside.

21. We have heard the learned counsels for the respective parties and perused the records.

22. From the pleadings of the parties, the sole point that needs to be determined by this Tribunal is whether the relative assessment of ACRs/CCRs of the applicant assessing and rating him as "Very Good" has been made within the four corners of rules.

23. In this connection, it is to be noted that Respondent No.2 in the counter has pointed out that the Selection Committee assessed the applicant as Very Good in accordance with Para B.3, 4.4D of the Guidelines of the Commission. For the sake of clarity, the provisions enshrined therein are reproduced hereunder:

"B.3. Overall Assessment/Categorization of Officers:

4.4. While finalizing the Overall Assessment of the officers [para 5.1 above refers], an officer shall be graded as :

A. "Outstanding" – if in the opinion of the Selection Committee, the service records of the officer reflect that he is of outstanding merit possessing exceptional attributes and abilities and these characteristics are reflected in at least four of the ACRs for the last five years as indicated in paras 3.1 and 3.2 above including the ACR for the last year provided he is graded at least "Good" in the ACR for the remaining year. While grading an officer as "Outstanding", the following indicative guidelines would be observed.

- (i) Whilst the overall grading in the ACRs will have its relevance, however, in order to have a final view, it will be essential to carefully peruse and assess all the individual attributes/columns in ACRs like, Work Performance, Targets Achieved, Supervision, Managerial capabilities, personality traits etc. before the Committee decides to grade an officer as 'Outstanding'.
- (ii) Thus, there should be an in-depth analysis of the performance of the officer before he is rated as 'Outstanding'. There should also be consistency in the grading given by different Committees in different years.
- (iii) Considering the fact that such 'Outstanding' officers are going to supersede other officers, there is a greater need to ensure that such officer has met the stringent norms of being graded as 'Outstanding'. For such purposes, the ACRs of the concerned officer

should elaborate his significant achievements or exceptional nature of work in the areas of law and order, disaster management, implementation of developmental schemes etc.

- (iv) Postings are not within the competence of an office for which he ought not to be discriminated. However, the Committee may also like to examine the various positions that such 'Outstanding' officers have occupied and the nature of duties performed by him over the years in the process of assessing the officer.

B. "Very Good"- If an in the opinion of the Selection Committee, his ACRs reflect that the officer has done highly meritorious work and possesses positive attributes and these characteristics are reflected in at least four of the last five ACRs as indicated in paras 3.1 and 3.2 above provided he is graded at least "Good" in the ACR of the remaining year.

24. Respondents in support of their stand have relied on the following decisions:

- i) Nutan Arvind vs. Union of India & ors. [1996] 2 SCC 488] wherein the Hon'ble Supreme Court has held that "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".
- ii) UPSC vs. H.L.Dev and ors (AIR 1988 SC 1069) in which it has been held by the Hon'ble Supreme Court that "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".
- iii) In Smt.Anil Katiya vs. UOI & Ors. (1997) (1) SLR 153), the Hon'ble SC held that "Having regard to the limited scope of judicial review of the merits of the selection made for appointment to a service or a civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgment over the selection made by the DPC unless the selection is assailed as being vitiated by malafides or on the ground of it being arbitrary. It is not the case of the applicant that the selection by the DPC was vitiated by mala fides".
- iv) In UPSC vs. Rajaiah and Ors. [(2005) 10 SCC 15], the Hon'ble Supreme has held that "That being the legal position, the Court should not have faulted the so called down gradation of the 1st

respondent for one of the years. Legally speaking, the term 'down gradation' is an inappropriate expression. The power to classify as 'outstanding', 'very good', 'good' and 'unfit' is vested with the Selection Committee. That is a function incidental to the selection process. The classification given by the State Government authorities in the ACRs is not binding on the Committee. No doubt, the Committee is by and large guided by the classification adopted by the State Government, but, for good reasons, the Selection Committee can evolve its own classification which may be at variance with gradation given in the ACRs. That is what has been done in the instant case in respect of the year 1993-94. Such classification is within the prerogative of the Selection Committee and no reasons need be recorded, though it is desirable that in a case of gradation at variance with that of the State Government, it would be desirable to record reasons. But having regard to the nature of the function and the power confined to the Selection Committee under Regulation 5(4), it is not a legal requirement that reasons should be recorded for classifying an officer at variance with the State Government's decision".

- v) In Civil Appeal No.5883-5891 (M.V.Thimmaiah & Ors. Vs. UOI & Ors), the Hon'ble Supreme Court has observed as under:

"9....the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an appellate authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit in court of appeal to examine the selection of the candidate nor is the business of the court to examine each candidate and record its opinion".

25. We have considered the rival submissions. In the written notes of submission, the applicant has pointed out that the State Government of Odisha has not prepared the zone of consideration/eligibility list in accordance with Rule-2(g)(ii) or 2(j)(ii) of IAS (Appointment by Promotion) Regulations, 1955, whereas the zone of consideration has been prepared as per Rules-5(1) and 5(2) of the Regulation which deals with seniority and criterion is 8 years service in the post of Deputy Collector and in any other post or posts declared equivalent. It has been pointed out that the applicant had completed nearly 20 years of service in the areas of Revenue and General Administration, remained

in charge of Sub-Division of a District or a post of higher responsibility in the hierarchy in terms of Regulation (2)(j)(ii) and had accomplished the exceptional nature of works in the area of law and order, disaster management, implementation of development schemes, etc. with work performance, target achievement supervision, managerial capability, personality test in terms of UPSC guidelines in terms of UPSC guidelines. According to applicant, the Selection Committee while classifying the eligible officers under Regulation -5(4), the eligibility of officers were required to be looked into in the first instance in terms of Regulation 2(j)(ii) and thereafter overall assessment of service records were required to be taken up by the Selection Committee. Applicant has relied on a decision of this Bench in O.A.No.443 of 2008 decided on 13.8.2010 to fortify his stand point.

26. From the facts described above, it transpires that the role of UPSC is to convene the Selection Committee Meeting and get the Select List prepared by the Selection Committee approved in consultation with the Government of India whereas the State Government is responsible for forwarding the necessary proposals/documents for consideration of the Selection Committee. At this stage, it would be prudent to note that the eligibility list, which the applicant all along has been pointing out has not been prepared in terms of Regulation 2(g) (ii) or 2(j)(ii) of Regulations, 1995 by the State Government of Odisha is not the same what is called the Select List which is prepared by the Selection Committee after classifying the eligible officers in the zone of consideration as "Outstanding", "Very Good", "Good" and "Unit" having regard to Rule-5(4) of and 5(5) of the Regulation, 1955. Since the applicant was within the zone of consideration on the basis of the proposals forwarded to the UPSC for consideration to I.A.S., he could not have any grievance in this

regard. He has assailed that had the eligibility list been prepared having regard to his service rendered in the areas of Revenue and General Administration and his discharge of duties being in charge of Sub-Division of a District and holding the post of higher responsibility in the hierarchy etc. in terms of Regulation (2)(j)(ii), he would have placed on a higher pedestal than the other eligible officers in the zone of consideration. In this connection, it is to be noted that the assessment of service records is made by the Selection Committee for the purpose of classification in accordance with the internal guidelines of the Commission, which in our considered view, has been prepared by adhering to the provisions of guidelines vide Para-B.3, 4.4.D as quoted above. Therefore, the allegation of the applicant that the State Government did not draw up the eligibility list in accordance with the provisions of Rule-2(g)(ii) or 2(j)(ii) of Regulations, 1995, is not in consonance with the provisions made for carrying out the overall relative assessment of service records. That part, it is to be noted that as per the provisions of Regulation 5(5), 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 State Civil Service and as per the provisions of Regulation 6 and 6-A of the Promotion Regulations, the State Government and the Central Government are required to furnish their observations on the recommendations of the Selection Committee. After taking into consideration the observations of the State Government and the Central Government and the requisite records received from the State

Government, the Commission takes a final decision on the recommendations of the Selection Committee with or without modification in terms of the provisions of Regulation-7. This position stands uncontroverted by the applicant. It is not the case of the applicant that there has been unfair practice or biased means adopted by the Selection Committee while rating his overall assessment as Very Good. Therefore, we do not find that the safeguards provided under the Statute/Regulations have not been scrupulously observed while preparing the Select List.

27. Law is well settled that the Tribunal cannot assume the role of the Selection Committee and/or sit in appeal over the decision taken thereon relating overall relative assessment of performance and/or grading assigned to the eligible officers within the zone of consideration. We do not find any flaw or lacuna in the overall relative assessment of the service records of the applicant vis-a-vis other eligible officers within the zone of consideration. We have examined the decision of this Tribunal dated 13.08.2010 in O.A.No.443 of 2008 relied on by the applicant in support of his case. The facts of that case being distinguishable from the facts in the case in hand, the decision so cited is of no assistance to the applicant.

28. In view of the foregoing discussions, we are of the view that the relative assessment of ACRs/CCRs of the applicant assessing and rating him as "Very Good" has been made within the four corners of rules. In the result, the O.A. being devoid of merit is dismissed. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

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