

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

**Original Application No.200/18/2013**

Jabalpur, this Wednesday, the 20<sup>th</sup> day of February, 2019

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

U. Durairaj, S/o Shri S. Udaiyar, aged about 59 years, Director-in-charge, Geological Survey of India, R/o H-12, Baghira Apartments E-5, Arera Colony, Bhopal – 462016 M.P.

**-Applicant**

**(By Advocate – Shri Dharmendra Soni)**

**V e r s u s**

1. Union of India through Secretary, Ministry of Mines, Shastri Bhawan, New Delhi – 110001.

2. Union of India through Director General, Geological Survey of India, 27, Jawaharlal Nehru Road, Kolkata – 700016.

3. Shri S. Balkrishnan, Deputy Director General, Southern Region, Geological Survey of India, Bandlaguda, Hyderabad (Andhra Pradesh) - 560058

4. Deleted.

5. Shri N.R. Ramesh, Deputy Director General, Mission-I Geological Survey of India 27, Jawaharlal Nehru Road, Kolkata 700016

**-Respondents**

**(By Advocate – Shri S.K. Mishra)**

**ORDER (O R A L)**

**By Navin Tandon, AM.**

The applicant was working as Director-in-charge with Geological Survey of India at Bhopal. He is aggrieved by the

fact that he has not been promoted to the post of Deputy Director General.

2. The applicant has made the following submissions in this O.A:

2.1 His Annual Confidential Report (ACR) for the period 01.10.2004 to 31.03.2005, 01.04.2005 to 31.03.2006 and 01.04.2006 to 28.02.2007 have been graded as 'Good' by the reporting and the reviewing authorities. In response, the applicant submitted his representation to respondent No.1, Director General of Geological Survey of India.

2.2 He received communication from respondent No.1 dated 18.05.2012 (Annexure A-7) that his ACRs for 2005-06 and 2006-07 have been upgraded as 'Very Good'.

2.3 Since he was not promoted as Deputy Director General (Geological), he approached this Tribunal in OA No.785/2012. This Tribunal vide its order dated 17.09.2012 (Annexure A-12) directed the respondent No.2 to decide his representation by a detailed, reasoned and speaking order. The respondent No.2 has rejected the

representation and communicated the same to the applicant vide order dated 11/13.12.2012 (Annexure A-13).

3. The applicant has, therefore, sought for the following reliefs:

**“8. Relief Sought:**

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

- i. Call for the entire material record pertaining to the instant controversy from the respondents for its kind perusal.
- ii. Issue the directions for the quashment of the order dtd. 11-12-2012.
- iii. Command the non-applicants to hold the Review DPC for promoting the eligible and entitled applicant herein onto the post of Deputy Director General (G) and to restore his seniority, which has been denied on account of communication of adverse entries in ACRs at the belated stage without any justification.
- iv. Grant any other relief/s, which this Hon’ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.”

4. The respondents, in their reply, have submitted that in terms of the Office Memorandum dated 27.04.2010 (Annexure R-1) of DoP&T, the applicant was provided an opportunity to make representation for all the ACRs to be considered by the DPC, which were below the benchmarks for the next

promotion. Accordingly, the applicant was given an opportunity to submit his representation for the ACRs of 2004-05, 2005-06 and 2006-07. It has been brought out in the order dated 11/13.12.2012 (Annexure A-13) that all his ACRs with very good, were sent to the UPSC for considering his promotion having overall 'Very Good' grading. However, the DPC which is empowered to devise it's own norm as per rules, for assessing the suitability of the individual candidates as per the norms devised, considered the applicant and he was declared unfit.

5. Heard learned counsel for the parties and perused the pleadings available on record.

6. Learned counsel for the applicant submits that the ACRs, which were not communicated to him have been considered while rejecting his case for promotion, whereas the juniors have been promoted.

7. Learned counsel for the respondents very clearly brought out that the applicant was given an opportunity to represent against grading of all the ACRs considered for promotion, which were below benchmark. The same were again considered by the competent authority based on the representation of the applicant and were upgraded to 'Very Good'. Therefore, the

directions contained in OM dated 27.04.2010 have been duly complied with.

8. Learned counsel for the applicant placed reliance on the decision of Hon'ble Apex Court in the case of **Dev Dutt v. Union of India**: (2008) 8 SCC 725, wherein it has been held that un-communicated adverse remarks in Confidential Reports cannot be taken into account for consideration for promotion of a Government employee.

9. In the instant case, the applicant was given full opportunity for representing against those below benchmark ACRs and his ACRs were upgraded. The DPC consisting of experts can frame its own rule and one such DPC has assessed the candidature of the applicant and declared him unfit. Therefore, we do not find any illegality in the impugned order dated 11/13.12.2012 passed by the respondents.

10. Accordingly, the O.A is dismissed, being without any merit. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

am/-