

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 4056/2014

Reserved on: 11.09.2019

Pronounced on: 18.09.2019

Hon'ble Mr. S.N.Terdal, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)

Sh.C.V .Ranga Venkatesh,
S/o Late Shri C.N.V.Rao,
Aged about 54 years,
R/o 12-K, Central Government Housing Complex,
Vasant Vihar, New Delhi-110057.

... Applicant

(By Advocate: Mr. Sanjiv Joshi)

VERSUS

1. Union Public Service Commission,
Through its Chairman,
Shahjahan Road, Dholpur House,
New Delhi-110069.

2. Department of Personnel and Training,
Through its Secretary,
CS.I Division, Lok Nayak Bhawan,
Khan Market, New Delhi-110003.

3. Secretary, Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110001.

... Respondents

(By Advocates: Mr. Ravinder Aggarwal for UPSC and
Dr.Ch.Shamsuddin Khan for R-2 & 3)

ORDER

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Sanjiv Joshi, counsel for applicant and Mr. Ravinder Aggarwal and Dr.Ch.Shamsuddin Khan, counsel for respondents, perused the pleadings and all documents produced by the parties.

2. In this OA, the applicant has prayed for the following reliefs:

“(a) Direct the respondent/UPSC to re-evaluate the marks on the basis of up-gradation of his downgrading ACRs;

- (b) Direct the respondent no. 2 & 3 to take necessary steps towards the inclusion of applicants name in the SO Grade LDCE-2009-2010;
- (c) Pass such other and further order as this Hon'ble Tribunal may deem fit and proper in the interest of justice."

3. The relevant facts of the case are that the applicant appeared in the Combined Section Officers/Stenographs'(Grade 'B'/Grade-1) Limited Departmental Competitive Examination, 2009, 2010 and 2011. He was qualified in the said examination. As per the rules, after qualification the ACRs/APARs of the applicant were called for the years 2005-2006 to 2011-12 and on the basis of the said ACRs/APARs, the respondent-UPSC considered his eligibility for the said three years i.e. 2009, 2010 and 2011. The case of the applicant is that his ACRs/APARs for the relevant periods were down-graded initially and thereafter they were upgraded and that the respondent-UPSC had not taken into account the upgraded ACRs/APARs. His further case is that for the year 2008-09 also his ACRs/APARs were upgraded in view of the direction given by this Tribunal in his earlier OA but, however, the respondent-UPSC had not considered the said upgraded ACRs/APARs for the year 2008-09 and on the above facts the applicant has sought the above stated reliefs.

4. The respondent-UPSC filed a detailed counter reply. They have stated that the evaluation of ACRs/APARs of the candidates who had qualified in the written examination was held during April-May, 2013 and the applicant claims to have got his ACRs/APARs upgraded much before those dates and all the upgraded ACRs/APARs available as on April-May 2013 were considered in the said selection process and their further case

is that no details of upgradation having been done with respect to ACRs/APARs for the year 2008-09 were available on record and their further case is that if the said upgradation with regard to 2008-09 had taken place after April-May, 2013 than as per the rules the ACRs/APARs upgraded at a later stage cannot be taken into account. The applicant also has not produced any specific document to demonstrate that his ACRs/APARs for the said period 2008-09 were upgraded at all or they were upgraded and sent to respondent-UPSC by his parent department before April-May, 2013. The relevant depositions of the respondent in this regard made in the counter reply are extracted below:

"3.3 There is no provision in the Rules of the Examination to review/reassess the position of candidate at a later stage due to up-gradation of his ACRs. The grading of the officer from the period 01.04.2007 to 12.10.2007 has been upgraded from average" to "good" vide Deptt. of Posts letter No.16/9/2010-Admn. dated 20.08.2010. Similarly, grading for the period 09.05.2011 to 31.10.2005 was upgraded from "Average" to "Very Good" on 08.02.2011 and gradings for the period 1999-2000 and from 01.08.2002 to 31.03.2003 were upgraded from "average" to "good" on 19.07.2011 and 22.11.2010 respectively. The application has no details of the upgradation done for the ACRs/APARs of the year 2008-09.

3.4 During the evaluation of ACRs/APARs of the written qualified candidates of SO/Steno Grade LDCE-2009, 2010 & 2011, the Commission called for ACRs/APARs for the year 2005-06 to 2011-12 during the April-May, 2013. Since his gradings were already upgraded on an earlier date, it is understood that his upgraded ACRs/APARs were forwarded by his Department and duly assessed by the Assessment Board at the time of Evaluation of ACRs/APARs during June, 2013 for SOs/Stenos Grade LDCE-2009, 2010 & 2011. As regards his ACRs/APARs for the year 2008-09 which were also stated to have been upgraded, it will not be possible for the Commission to consider any re-evaluation/re-assessment of his ACRs/APARs once the assessment of the ACRs/APARs is over. Such up-gradation cannot be considered for re-evaluation of the ACRs/APARs of the candidate as it is not permissible under the Rules of the Examination. Such a

move will open a Pandora box with multiple litigations moved against the Commission by all other similarly placed candidates.

3.5 The candidate is duly considered for the three years 2009, 2010 & 2011 contrary to his belief that he was considered against the select year 2011 only. Subsequent to his inclusion in the Select List year 2013 by his Department, the Commission considered him as an eligible candidate for all the three years i.e. 2009, 2010 & 2011. However, it is only by virtue of his marks that he was recommended for the Examination Year-2011. There is no provision under the Rules of the Exam for re-evaluation of the marks of ACRs/APARs subsequent to up-gradation of ACRs at a later stage. The entire move of filing the instant OA is merely an afterthought of the applicant in order to improve his seniority by making such claims, which have no substance. In case such reliefs are allowed in favour of the applicant, other candidates who could not be recommended due to a marginal difference or those who are similarly placed with the applicant will also make such endeavours to get them recommended/upgraded. The Commission has never allowed such requests in the past, and if allowed, the process of the Limited Departmental Examinations such as SO/Steno Grade LDCE, which are conducted on a regular year-wise basis can never achieve finality and the Commission would not be able to conduct and finalize the Examination as per the notified schedule, which in its Constitutional mandate."

At the time of hearing also the counsel for the applicant could not point out any document to demonstrate that applicant's ACRs/APARs were upgraded for the year 2008-09. In the facts and circumstances narrated above and in view of the specific averment made in the counter reply filed by the respondents extracted above, the application is devoid of merit.

5. Accordingly, OA is dismissed. No order as to costs.

(A.K.Bishnoi)
Member (A)

(S.N.Terdal)
Member (J)

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