

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. O.A. 350/01404/2015

Date of order: 23.9.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Ms. Juni Das,
Daughter of Late Monoranjan Das,
Aged about 50 years,
Working as Lower Division Clerk in the
Office of the Registrar of Companies
(West Bengal), Nizam Palace,
2nd M.S.O. Building, 2nd Floor,
234/4, AJC Bose Road, Kolkata- 700 020,
Residing at 104, Subhas Nagar Bye Lane,
Kolkata - 700 065.

.. Applicant

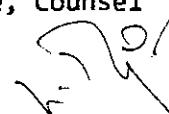
- V E R S U S -

1. Union of India
Through the Secretary to the
Govt. of India,
Ministry of Corporate Affairs,
5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road,
New Delhi - 110 001.
2. The Regional Director,
Eastern Region,
Ministry of Corporate Affairs,
Nizam Palace,
2nd M.S.O. Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata- 700 020.
3. The Registrar of Companies (West Bengal),
Nizam Palace,
2nd M.S.O. Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata- 700 020.
4. The Assistant Registrar of Companies,
(West Bengal), Nizam Palace,
2nd M.S.O. Building, 3rd Floor,
234/4, AJC Bose Road, Kolkata- 700 020.

.. Respondents

For the Applicant : Mr. S.K. Dutta, Counsel

For the Respondents : Mr. B. Chatterjee, Counsel



O R D E R (Oral)

Per Mr. G. Rajasuria, Judicial Member:

Heard Ld. Counsel for both sides.

2. This O.A. has been filed seeking the following reliefs:-

"a. An order holding that the numerical grading/overall grading below good in APAR of the applicant as per new format for the period/year 2009-2010 pending on 31st March, 2010 is bad in law and arbitrary.

b. An order quashing and/or setting aside the impugned over all new grading/numerical grading below good in the APAR of the applicant for the year/period 2009-2010 ending on 31st March, 2010.

c. An order directing the respondents to revise the numerical grading/numerical over all grading to good instead of below good in the APAR as per new format for the period/year 2009-2010 ending on 31st March, 2010 at par with the over all grading given to the applicant for the said period as per old format in terms of the Ministry of Corporate Affairs O.M. dated 11.2.2011 at Annexure A-2 to this application and further directing the respondents to grant all consequential benefits to the applicant including consideration for promotion to the post of UDC from the date her immediate junior was so promoted and also direct the respondents to grant all consequential monetary benefits to the applicant.

d. An order directing the respondents to produce/cause production of all relevant records.

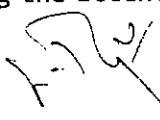
e. Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. The Ld. Counsel for the applicant would air the grievance of

his client thus. The applicant has been working as Lower Division Clerk.

While so her aspiration to become UDC was denied to her on the sole ground that she could not get the bench mark "good" for the year 2009-2010. The real fact remains that during the year 2009-2010 she was graded "good" under the old format which was prevailing at that time. Subsequently the new format came into vogue and as per the new format she was graded under the mark system as "below good", as she was given 3.9 marks. As such, she was denied promotion.

4. The Ld. Counsel for the applicant drawing the attention of this

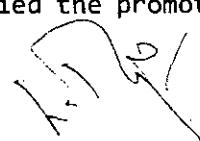


Court to the communication dated 11.2.11 (Annexure A-2) would develop his arguments that while a government servant is assessed under the new format it should be in pari materia with the old format, but in this case it was not adhered to and as such the applicant was denied of her due promotion. Accordingly, the Ld. Counsel for the applicant would pray for issuing suitable direction to the respondent authority.

5. Per contra, the Ld. Counsel for the respondents would submit that unless a detailed reply is filed, the facts would not come to lime light, and he would also add that under the new format she was assessed properly. As such, no irregularity could be noticed.

6. The point for consideration is as to whether the applicant was assessed properly in accordance with Annexure A-2 the communication dated 11.2.2011 issued by the Ministry of Corporate Affairs for the year 2009-2010.

7. Indebutably and indisputably as revealed by Annexure A-1 so to say the old format relating to ACR for the year 2009-2010, she was assessed as "good". However, as a one time measure, the new format also was expected to be filled up by the officer in pari materia with the assessment made in the old format and the fact remains that this occurred during the transition period from the old system to the new system. What was expected of an officer assessing the government servant was that he should in pari materia with the assessment made in the old format should fill up the new format by resorting to marks system. Even though under the old system the officer concerned graded the applicant as "good" which is sufficient for getting promotion from LDC to UDC, yet in the new format while awarding marks under the mark system, he had put lesser marks and that it denied the promotion to



the applicant, which requires to be reconsidered by the appropriate review DPC. As per para 3 of the O.M. dated 11.2.2011 the assessment under the old format and the new format should tally with each other. Our discussion *supra* would highlight that the reporting officer as well as the reviewing officer did not adhere to the said communication and furthermore we could see irregularity awarding marks under the new format.

8. As such, we are of the considered view that the respondent authorities should be directed as under:-

The respondent authority concerned shall cause to constitute a review DPC so as to consider the promotion of the applicant within a period of three months from the date of receipt of a copy of this order and communicate the result to the applicant.

8. Ordered accordingly.

(Jaya Das Gupta)
MEMBER(A)

(G. Rajasuria)
MEMBER(J)

SP