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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 1301/2003

NEW DELHI THIS 13<sup>th</sup> <sup>December</sup> ~~NOVEMBER~~ THE DAY OF 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)  
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Usha Kiran Goel,  
W/o Sh. R P Goel,  
Type IV, Plot No.91, North West Moti Bagh,  
New Delhi – 110021

.....Applicant

(By Advocate: Shri Shyam Babu)

VERSUS

1. Union of India  
Through its Secretary,  
Ministry of Information & Broadcasting,  
Shastri Bhawan, New Delhi – 110001
2. Union Public Service Commission  
Through its Secretary,  
Dholpur House, Shahjahan Road,  
New Delhi – 110001.

.....Respondents

(By Advocate: Shri M M Sudan)

**ORDER**

**BY HON'BLE SHRI S.A. SINGH, MEMBER (A)**

The applicant earlier preferred a OA No.34/1999, which was allowed by the Tribunal by their Judgment dated 15.12.2000, The Union of India filed CWP 1815/2001, which was set aside by the Delhi High Court vide its order dated 16.4.2002. It was held that the decision of the DPC held in the year 1998 was not in question before the Tribunal and the applicant may therefore file a separate application. In view of this back drop the applicant has filed the present OA claiming the relief of giving directions to the respondents to convene a review DPC for the year 1990-91 – 92, 1992-93, 1993-

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94, 1994-95, 1995-96 and 1996-97 for promotion of the applicant to Junior Cadre of IIS (Group A) by totally taking out of the consideration grading of average given in her ACR for the period 1994-95 or in the alternative give directions to the respondents to convene a review DPC for considering the case of the applicant for the year 1998 onwards and to quash the letter dated 15.12.1999. The adverse remarks were record in her ACR for the year 1994-95. She preferred an appeal against it on 23.8.95 which was rejected on 15.12.1995. Thereafter she filed a memorial to the Hon'ble Minister which was accepted on 3.7.1997 and the adverse remarks were expunged. However, though the adverse remarks were expunged but the grading of Average was not changed and as such she did not obtain any benefit from the expunged adverse remarks. As this grading was taken into consideration by the DPCs held in April/May 1997, and by review DPC held in September 1997 as well as DPC of 26.8.98.

2. Needless to say that the case was contested by the respondents stating that applicant was considered for promotion to Junior Grade IIS (Group A) in DPC held in UPSC from 29.4.97 to 1.5.97 for the vacancies for the years 1990-91, 1991-92, 1992-93 wherein the ACRs of the eligible officers in the zone sof consideration were considered for the preceding five years with reference to the year of vacancy as per DoPT OM dated 10.4.89. The ACRs of the applicant for the last five years i.e. upto 1993 were considered by the DPC for the vacancies of 1994 and she was not recommend for promotion of Jr. IIS (Group A).

3. In compliance to the judgment in other OA No 1394/91 in the case of Chandrika Vyas & Ors Vs UOI a review DPC was held in UPSC on 4.9.97 to 5.9.97 in which the DPC proceedings for the promotion held in April/May 1997 were reviewed and ACRs upto 1992-93 were considered and in view of the DPC recommendations the applicant was not considered for promotion.

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4. When another DPC was held in UPSC in August 1998 for the vacancies of years 1995-96, 1996-97 and 1997-98 wherein the ACRs of the preceding five years with reference to the year of vacancy were considered and which included the expunged and corrected ACR of the applicant for the year 1994-95. However, this DPC also did not recommended the applicant for promotion to the Jr. Grade of IIS (Group A). The expunged ACR for 1994-95 was first considered by the DPC for the vacancies for the year 1995-96 and thereafter for subsequent vacancies as per rules. The applicant being aggrieved by the non promotion filed OA 34/1999. Though the Tribunal had quashed the order dated 17.6.97 and 4.11.97 of the respondent with further directions to hold review DPC without taking consideration the grading of average for the year 1995. The said order was set aside by the Hon'ble High Court Delhi by its order dated 15.12.2000 observing that the ***"learned Tribunal was not correct in passing an impugned judgment in as much as so far as the review DPC held in the year 1997 is concerned, having regard to the letter of the UPSC dated 15.12.1999 the ACR of the petitioner for the year 1994 was not taken into consideration by the DPC. the same ACR might have been relevant in so far as regular DPC held in the year 1998 was concerned. But from the perusal of the Original Application it appears that the decision of the DPC held in the year 1998 was not in question before the Tribunal."***

5. The applicant filed a RA No. 8489/2002 in the Hon'ble High Court Delhi which was dismissed.

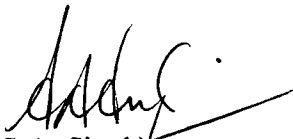
6. Having heard the counsel for the parties and perused the documents brought on record and also after going through the DPC proceedings and ACRs of the applicant we find that the short question before the Tribunal is whether the ACR of the year 1994-95 (for which adverse remarks had been expunged) was considered in DPC held in September 1997. The letter of the UPSC dated 15.12.99 (R-VI) reads as under:

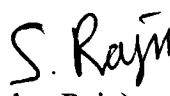
“that Ms Usha Kiran Goel was considered for promotion to the Junior Time Scale of Indian Information Service against the vacancies for the year 1993 by the DPC held from 29<sup>th</sup> April to 1<sup>st</sup> May, 1997. Her ACRs for the years 1988-89 to 1992-93 were assessed by the DPC. Ms Usha Kiran Goel was again considered for promotion by the Review DPC held on September 4 & 5, 1997 against the vacancies for the year 1990, 1991, 1992, 1993 and 1994. Her ACRs for the year 1994-95 was not assessed by the Review DPC too. She was

not recommended for promotion either by the regular DPC or by the Review DPC.”

7. It is clear that the ACR for the year 1994-95 was not taken into consideration by the DPC held in September 1997 and the record made available to us confirmed the same. The ACR for the year 1994-95 was taken into consideration by the subsequent DPC held in August 1998. Perusal of the ACR Dossier of the applicant shows that the grading of 'Average' has not been changed, though the adverse remarks have been expunged.

8. In view of the above we direct that the grading of 'Average' in the ACR of 1994-95 should be ignored and a Review DPC should be held for the vacancies considered by the DPC held on 26.8.1998 and by any subsequent DPC where the ACR of the applicant of 1994-95 was relevant, in accordance with the rules. With these directions the OA is disposed of. No costs.

  
(S.A. Singh)  
Member (A)

  
(Shanker Raju)  
Member (J)

Patwal/