



IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3215 OF 2025

Raju Naryana Swamy

.....Appellant(s)

VERSUS

State of Kerala & Ors.

.....Respondent(s)

J U D G M E N T

Joymalya Bagchi, J.

1. Appellant is an IAS officer of the 1991 batch in the Kerala cadre. He has a brilliant academic record and is the seniormost officer of the said batch. He was promoted to the grade of Principal Secretary w.e.f. 1.06.2016. The next promotion was to the grade of Chief Secretary. The selection to the Chief Secretary grade is governed by Clause VI of the 'Principles regarding Promotion of Members of IAS' as per Note 1 appended to Rule 3(1) of the IAS (Pay) Rules, 2016. The zone of consideration comprises all members of the Service who have completed a tenure of 30 years. The selection is to be made by a Screening Committee consisting of the Chief Secretary, one officer working

in the promotional grade cadre and another officer of the same grade serving in Government of India.

2. The Guidelines framed for functioning of Screening Committee, *inter alia*, provide meetings of the Committee shall be convened on a yearly basis to fill up existing as well as anticipated vacancies in the cadre from the panel of eligible candidates. A combined reading of relevant clauses¹ governing

¹General Guidelines for Promotion etc. and functioning of Screening Committees

“Cl. 4.1 The proposals should be completed and submitted to the Committee well in time. No proposal for holding a Committee meeting should be sent until and unless at least 90% of the up-to-date and complete ACRs are available. Every effort should be made to keep the ACR dossiers up-to-date lest this aspect is advanced as the reason for not holding the Committee meetings in time. The officer referred in para 2 above would be responsible for monitoring and the completion of the ACR dossiers as per the extant instruction in this regard. In respect of cases relating to confirmation and assessment of the work and conduct of probationers, he would ensure the timely submission of the Assessment Reports etc.

Cl. 6. Each Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. While merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course. It should be earned by dint of hard work, good conduct and result oriented performance as reflected in the annual confidential report and based on strict and rigorous selection process. The misconception about “Average” performance also requires to be cleared. While “Average” may not be taken as adverse remark in respect of an officer, it cannot also be regarded as complimentary to the officer. Such performance should be regarded as routine and undistinguished. Nothing short of above-average and noteworthy performance should entitle an officer to recognition and suitable rewards in terms of career progression.

Cl. 7.1 The Annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each Committee. The evaluation of ACRs should be fair, just and non-discriminatory. The Committee should consider ACRs for equal number of years in respect of all officers falling within the zone of consideration for assessing their suitability for promotion. Where one or more ACRs have not been written for any reason, the Committee should consider the available ACRs. If the Reviewing Authority or the Accepting Authority as the case may be, has overruled the Reporting Officer or the Reviewing Authority respectively, the remarks of the Accepting Authority should be taken as the final remarks for the purposes of assessment. While making the assessment, the Committee should not be guided merely by the overall grading that may be recorded in the ACRs but should make its own assessment on the basis of the overall entries made in the ACRs.

the procedure for selection would show until and unless 90% of updated and complete ACRs/PARs of an officer are available, his proposal for promotion shall not be submitted to the Committee. However, even if requisite percentage of ACRs have not been written for any reason, the Committee is empowered to consider available ACRs, subject to the appraisal of ACRs for equal number of years in respect of all officers falling in the zone of consideration. While making an assessment, the Committee need not be guided merely by ACR gradings but is entitled to make its own assessment of overall entries made in the ACRs. There shall be no benchmark for assessing suitability of the officers for promotion.

3. The Committee shall also consider any major or minor penalty or displeasure of any higher authority conveyed to the

Cl. 7.2 *In the case of each officer, an overall grading should be given which will be either "Fit" or "Unfit". There will be no benchmark for assessing suitability of officers for promotions.*

Cl. 7.3 *Before making the overall grading, the Committee should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any higher authority has been conveyed to him. Similarly, the Committee would also take note of the commendations received by the officer during his service career. The Committee would also give due regard to the remarks indicated against the column of integrity. The list of candidates considered by the Committee and the overall grading thus assigned to each candidate would form the basis for preparation of the panel for promotion."*

officer in addition to commendation, if any, received during his service career.

4. Clause 23 of the Guidelines permits review of proceedings of the Selection Committee only if material facts were not taken into consideration or if there were grave errors in the procedure.

5. In the present case, Screening Committee convened on 14.12.2020 for assessing suitability of eligible officers of 1991 Batch. Though the appellant was to complete 30 years of service and 90% of his ACRs had not been written, he was assessed along with other eligible officers as a 'special case' based on his available ACRs. Upon assessment, the Screening Committee found him ineligible for promotion holding as follows:

***“4.** The Committee have examined entire ACRs/PARs of 30 years in respect of the above officers and found that 90% of the ACRs/PARs are available in respect of all the officers except Dr. Raju Narayanaswamy. The Committee also noticed that no proposal for holding a committee meeting should be sent until and unless at least 90% of the up-to-date ACRs are available. As such as per para 4.1 of Principles regarding Promotion of Members of the Indian Administrative Service and Composition of Departmental Promotion Committees, the name of Dr. Raju Narayanaswamy is not fit to be placed before the Screening Committee for considering as the ACRs/PARs of about five years are missing. However, Screening Committee has verified entire ACRs/PARs of Dr. Raju Narayanaswamy as a special case. The gradings/remarks recorded in his available ACRs/PARs are also not satisfactory. The Committee found that the performance of the officer has been below*

noteworthy over the years. After detailed discussion, the Committee, has come to the conclusion that the name of Dr. Raju Narayanaswamy, IAS is not fit to be included in the panel for promotion to the Apex Scale i.e. Chief Secretary Grade of IAS, the vital position in Administration. Hence, the Committee has decided not to recommend his name.”

6. Aforesaid decision of the Screening Committee was approved by the Council of Ministers.

7. Being aggrieved by the decision, appellant made a representation for review under Clause 23 of the Guidelines (supra). Since no steps were taken, appellant approached Central Administrative Tribunal². CAT disposed of the matter directing the Review Committee to take a decision on the representation of the appellant within three months.

8. Appellant being one of the seniormost officers, the Review Committee comprised the then Chief Secretary of the State. Appellant was given an opportunity of hearing before the hearing officer. After considering the report of the hearing officer, the Review Committee by order dated 27.04.2021 rejected the application, *inter alia*, holding as follows:

“5. *On examining the report of the hearing officer, it is found that, there have been at least five instances where the officer has been rated poorly by the officials in the chain of command writing his Confidential Reports and his leadership quality and interpersonal skills have been rated as not befitting an officer who*

² Central Administrative Tribunal (‘CAT’ for short), Ernakulam Bench in O.A. 110/2021.

has to lead a team. Also, there have been records in the ACRs/PARs regarding his absence from important meetings. The officer has been observed to be a serial litigant as per an ACRs/PARs. The officer in course of hearing threatened that he would be filing cases for defamation against the officers who wrote his ACRs/PARs. During the service period, the ACRs/PARs of the officer are not available for eleven instances. Among them 01.01.2001 to 16.09.2002 (1 year 8 months 16 days) & 27.6.2008 to 31.03.2010 (1 year 9 months and 5 days) are the longest periods in which the APARs of the officer are not available. Further, during the period from 19.3.2019 to 17.3.2020, the Officer has been on unauthorised absence which has not been regularised so far.”

9. Review Committee further noted the adverse remarks in the ACRs/PARs were substantiated by relevant records. Other than ACRs/PARs, the Committee observed instances of lack of interpersonal skills evident from the conclusion of the Fact Finding report and observations by CAT³ enumerating detailed instances of indiscipline and improprieties of the officer.

10. Aggrieved by such decision, appellant approached CAT⁴. CAT dismissed the application which was challenged by appellant before the High Court.

11. The High Court noted 90% of appellant's ACR were not available and the Screening Committee was handicapped in considering his case for want of ACRs. The Court also observed appellant failed to demonstrate that he had submitted self-

³ CAT, Madras Bench in O.A. No. 310/1011/2019.

⁴ CAT, Ernakulam Bench in O.A. 180/199/2021.

appraisal forms for preparing ACRs. Accordingly, High Court without going into the correctness of the decision of the Review Committee gave liberty to appellant to approach the authorities for preparation of his ACRs and consider his promotion to the grade of Chief Secretary after ensuring availability of 90% of his ACRs.

12. Mr. R. Basant, learned Senior Counsel and Mr. Subhash Chandran, learned counsel appearing for the appellant contend the Review Committee travelled beyond the reasons recorded by Screening Committee to justify rejection of claim for promotion. Instead of assessing the appellant solely on his post-2016 grading i.e. 'outstanding' and 'very good', Committee relied on adverse entries prior to 2016 which had been 'washed off' pursuant to appellant's promotion. The Review Committee also illegally took into consideration the observations in the Fact Finding report, which was neither a part of ACRs nor communicated to the appellant. Even the findings in the CAT order⁵ not being a part of the ACRs ought not to have been looked into. These are serious procedural irregularities which were glossed over by the High Court. Without examining the

⁵ CAT, Madras Bench in O.A. No. 310/1011/2019

matter from this perspective, High Court merely gave appellant liberty to approach the authorities for fresh consideration after generation of 90% of ACRs.

13. In reply, Mr. Giri with Mr. Jayanth Muth Raj, learned Senior Counsels for the respondent-State argued though 90% of appellant's ACRs were not written, he was considered as a 'special case'. Post his promotion in 2016, only two ACRs were available. This necessitated the Committee to look into prior ACRs/PARs of the appellant. Even if one ignores the notings in prior ACRs, service records for 2019-20 show the appellant had unauthorisedly absented himself for about a year i.e. from 19.03.2019 to 16.03.2020. Promotion to the highest grade i.e. Chief Secretary grade is a sensitive matter and requires examination of the entire service record. Respondents 3 and 4 have also supported these contentions through their written submissions.

14. The nub of the challenge thrown to the decision of the Review Committee is that it had considered additional/extraneous materials in rejecting the appellant's prayer for review.

15. It is contended the Review Committee could not have considered the adverse entries made in ACRs/PARs prior to the appellant's promotion in 2016.

16. In support of the plea, reliance is placed on *Baidyanath Mahapatra v. State of Orissa*⁶, *Pyare Mohan Lal v. State of Jharkhand & Ors.*⁷ and *High Court of Judicature at Patna v. Shyam Deo Singh & Ors.*⁸ Cited authorities deal with impact of pre-promotion adverse entries in ACRs on the issue of compulsory retirement, though in passing it is observed such prior entries may not be considered for further promotion.

17. In *Badrinath vs. Government of Tamil Nadu & Ors.*⁹ the impact of prior entries in ACRs on promotion squarely fell for decision. This Court summarized the law as:

“58. From the above judgments, the following principles can be summarised:

(1) Under Article 16 of the Constitution, right to be “considered” for promotion is a fundamental right. It is not the mere “consideration” for promotion that is important but the “consideration” must be “fair” according to established principles governing service jurisprudence.

(2) Courts will not interfere with assessment made by Departmental Promotion Committees unless the aggrieved officer establishes that the non-promotion was bad according to *Wednesbury* principles or it was *mala fides*.

(3) Adverse remarks of an officer for the entire period of service can be taken into consideration while promoting an officer or while

⁶ (1989) 4 SCC 664

⁷ (2010) 10 SCC 693

⁸ (2014) 4 SCC 773

⁹ (2000) 8 SCC 395

passing an order of compulsory retirement. But the weight which must be attached to the adverse remarks depends upon certain sound principles of fairness.

(4) If the adverse remarks relate to a distant past and relate to remarks such as his not putting his maximum effort or so on, then those remarks cannot be given weight after a long distance of time, particularly if there are no such remarks during the period before his promotion. This is the position even in cases of compulsory retirement.

(5) If the adverse remarks relate to a period prior to an earlier promotion they must be treated as having lost their sting and as weak material, subject however to the rider that if they related to dishonesty or lack of integrity they can be considered to have not lost their strength fully so as to be ignored altogether.

(6) Uncommunicated adverse remarks could be relied upon even if no opportunity was given to represent against them before an order of compulsory retirement is passed.”

(Emphasis supplied)

18. Applying the ratio to the facts of the case, it appears that the Committee was entitled to consider the entire service record of the appellant while considering him for promotion to the highest echelons of civil service. But the adverse entries prior to his earlier promotion would lose their sting and be treated as ‘weak material’ unless they relate to dishonesty or lack of integrity.

19. Admittedly, adverse entries in ACRs prior to earlier promotion in 2016 do not relate to dishonesty and cannot by themselves constitute a ground to deny promotion to the next higher grade. But if the service record of the officer post promotion shows a similar trend of lack of discipline or interpersonal skills as reflected in the earlier entries, it may lend

assurance to conclusion of the Committee that the earlier promotion has not invigorated the officer concerned and he continues to dwell in similar aberrations justifying the denial of further promotion.

20. The Review Committee had examined the entire service record of appellant and noted that in 2019-20 appellant had absented himself for about a year without justifiable cause. A show cause notice was also issued in this regard. Subsequently the said period has been treated as 'non-duty' i.e. absence without leave. This conduct was taken into consideration to deny promotion to appellant to the highest echelon of civil service. It cannot be said that the decision of the Review Committee was solely based on adverse entries in ACRs/PARs prior to promotion or on uncommunicated observations in the Fact Finding report.

21. The submission that the Review Committee looked into additional material and supplied new reasons to justify denial of promotion is erroneous. The rationale expressed by Screening Committee was merely amplified by the Review Committee in light of the submissions and material placed by appellant.

During hearing of his review application, appellant alleged his reporting authorities were biased and threatened to sue them for defamation. Refuting such claim, Review Committee observed noting the appellant's brilliance he had been awarded high grades to give him a chance for correction, which he failed to utilize. Such observation shows a fair and objective assessment by Review Committee after taking into consideration both commendations and adverse conduct of appellant.

22. Individual excellence may sometimes lead to superiority complex and hinder commitment to discipline, decorum and collegiality. Keeping in mind the essential requisite of collective leadership in highest echelons of civil service, the Committee was justified in giving due weightage to lack of adherence to discipline and collegiality.

23. Mr. Basant's argument that no benchmark score was fixed as per Rule 2 of IAS (Pay) Rules, 2016 is of little consequence. Clause 7.2 of the Guidelines unequivocally states that no benchmark is to be fixed. Be that as it may, failure to fix benchmark score cannot be treated as a marker of

arbitrariness or discrimination since appellant was considered as a 'special case' though 90% of his ACRs were not available.

24. In view of the aforesaid, it cannot be said the decision of the Committee is either *mala fide* or so unreasonable that a man of ordinary prudence would not have come to such a conclusion. It may also be relevant to bear in mind that Screening Committee decision had not been assailed by appellant.

25. Much water has flown since then. In 2021 as well as 2022, appellant's case was again considered and rejected by the Screening Committee. Thereafter, the High Court has again given opportunity to the appellant to approach the authorities concerned for generation of 90% of the ACRs and reconsideration of his case. Given this situation, no case for interference is made out and the appeal is dismissed.

.....**J.**
(PAMIDIGHANTAM SRI NARASIMHA)

.....**J.**
(JOYMALYA BAGCHI)

**New Delhi,
April 23, 2025**