

GAHC010149882024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3902/2024

UNION PUBLIC SERVICE COMMISSION (UPSC)
DHOLPUR HOUSE, SHAHJAHAN ROAD, NEW DELHI-110069,
REPRESENTED BY SECRETARY, UPSC, DHOLPUR HOUSE, SHAHJAHAN
ROAD, NEW DELHI-110069.

VERSUS

RAKESH KUMAR AND ANR
S/O- LATE HARBANS LAL, COMMANDANT 3RD IRBN, IRBN SEIJOSA
DISTRICT PAKKE KESSANG, ARUNACHAL PRADESH.

2:THE UNION OF INDIA
THROUGH ITS SECRETARY
MINISTRY OF HOME AFFAIRS
NORTH BLOCK, NEW DELHI-110001

For the petitioner : Mr. A. Todj, Advocate
For respondent(s) : Mr. A.K. Behra, Sr. Advocate
Assisted by Mr. N.K. Sarma, Advocate
Mr. R.K. Dev Choudhury, Advocate

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

07.08.2024

(Vijay Bishnoi, CJ)

This writ petition is filed by the petitioner, Union Public Service Commission (UPSC), being aggrieved with the order dated 22.04.2024, passed by the Central

Administrative Tribunal (hereinafter referred to as 'Tribunal'), Guwahati Bench, in Original Application No. 045/0286/2021, filed by the respondent No. 1 herein. The said Original Application was filed by the respondent No. 1 herein challenging the order dated 24.09.2020, issued by the Ministry of Home Affairs, Government of India, whereby the application submitted by the respondent No. 1 herein for inclusion of his name in the select list of the IPS cadre for the year 2015 was rejected.

We have heard the learned counsel appearing for the parties and have gone through the material available on record.

The Tribunal, while setting aside the order, has directed the Selection Committee of the Union Public Service Commission (UPSC) to hold a review DPC and assess the upgraded ACRs of the applicant (respondent No. 1 herein) for the years 2005-06, 2002-03 and 2001-02 with the further direction that if the applicant would be found fit otherwise, he would be granted the consequential benefits. It is also observed that such exercise be completed within a period of four months from the date of receipt of copy of the order.

In the impugned order, the Tribunal has taken into consideration the fact that the Selection Committee of the UPSC has not provided any reasons or record any comment with regard to the upgraded ACRs of the applicant before non-suiting him for promotion to IPS cadre for the year 2015.

Learned counsel for the petitioners has submitted that, as a matter of fact, the Selection Committee of the UPSC is not required to give any reason while declaring an incumbent not fit for promotion to the IPS cadre. It is also submitted that by virtue of the provisions contained in the All India Police Service Act, 1951 and the Union Public Services (Appointment by Promotion) Regulation, 1955, the UPSC makes selection of the State police officers for appointment by way of promotion to the Indian Police Service based on the proposal of the concerned State and such selected incumbents are appointed by the Ministry of Home Affairs on the basis of the selection made by

the UPSC. It is also contended that the UPSC has comprehensive guidelines/procedures for preparation of the select list of the suitable officers for promotion to the Indian Police Service and, therefore, the UPSC or its Selection Committee is not obliged to make the selections only on the basis of the ACRs of the incumbents. It is further contended that the quality of the officers and other relevant aspects are also to be taken into consideration while considering a case for promotion to the IPS cadre. Learned counsel for the petitioners has submitted that the Tribunal has ignored all these aspects and has erred in directing the Selection Committee of the UPSC to hold a review DPC in respect of the respondent No. 1.

Per contra, learned counsel appearing for the respondent has supported the judgment passed by the Tribunal.

Having heard the learned counsel for the parties and after going through the judgment passed by the Tribunal as well as the material available on record, we are of the view that the learned Tribunal has simply directed the Selection Committee of the UPSC to hold a review DPC and assess the upgraded ACRs of the respondent No. 1 for the years 2005-06, 2002-03 and 2001-02. The Tribunal has not issued any direction either to promote the petitioner to the IPS cadre for the year 2015 or has given any observation regarding the upgraded ACRs of the respondent No. 1.

True it is that the Selection Committee of the UPSC is bound by the procedures and guidelines framed for the purpose of assessment of the State Police Officers for promotion to the IPS cadre, however, even while holding a review DPC, the UPSC/Selection Committee can follow the said procedures.

In view of the above, we do not find any case for interference with the impugned judgment passed by the Tribunal.

However, we make it clear that while holding the review DPC, the Selection Committee of the UPSC is not supposed to be influenced by any of the observations made by the Tribunal in the impugned judgment.

Looking to fact that the period of four months granted by the Tribunal for carrying out the exercise is about to expire, we extend the said period for further two months to carry out the directions given by the Tribunal in the impugned judgment.

This writ petition stands disposed of with the above observations.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant