

W.P. No. 20420 of 2006

DATE: 05.11.2015

Between:

P. Sridhar .. Petitioner

And

The Union of India
and four others .. Respondents

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ORDER:- (per Hon'ble Sri Justice G.Chandraiah)

This writ petition is filed seeking to set aside the order dated 22.07.2005 in O.A.No. 889 of 2003 passed by the Andhra Pradesh Central Administrative Tribunal, Hyderabad (for brevity "the Tribunal") and consequently direct the respondents herein to place the petitioner in the Grade of Deputy Armament Supply Officer (Non-Functional Selection Grade) in the pay scale of Rs.12,000 – 16,500) on par with his juniors.

The assertion of the petitioner before the Tribunal is that while he was working as Manager in the office of the 5th respondent, he made a representation dated 21.05.2003 to the 2nd respondent requesting to place him as Deputy Armament Supply Officer (Non-Functional Selection Grade), but the same was disposed of on 15.07.2003 informing that his name could not be included in the panel for the reason that he does not have overall performance as "Good" with at least two "Very Good" Gradings in the last five ACRs. Being aggrieved by the same, the petitioner filed O.A.No.889 of 2003, and the Tribunal, by order dated 22.07.2005, dismissed the O.A. holding that the Departmental Screening Committee did

not find him suitable in accordance with the aforementioned stipulated standard, as such, his case was not recommended for placement to the post of DASO(NDSG). Challenging the order of the Tribunal, the present writ petition is filed.

Dr. P.B.Vijay Kumar, learned counsel for the petitioner, has submitted that the petitioner's ACRs. contain two "Very Good" gradings, and the Departmental Screening Committee has not communicated to the petitioner either any adverse remarks or anything downgrading of his bench mark and he was not upgraded on par with his junior. It is further submitted that the petitioner's ACRs. do contain at least two "Very Good" gradings during the last five years and as such, the writ petition may be allowed.

Sri B.Narayana Reddy, learned Assistant Solicitor General of India appearing for the respondents, has mainly contended that inasmuch as the ACRs. of the petitioner do not contain at least two "Very Good" gradings during the last five years, he was not found fit in the selection process, and therefore, his case was not considered by the Departmental Screening Committee and the Tribunal has rightly considered this aspect of the matter, as such, the writ petition may be dismissed.

Heard the learned counsel for both the parties and perused the material placed on record.

The learned counsel for the petitioner strongly

disputes the contention of the respondents that the petitioner's ACRs. do not contain at least two "Very Good" gradings on the ground the same was not communicated to him. In support of his contention, he relies on a judgment rendered by the Apex Court reported in **Dev Dutt v. Union of India**^[1] wherein it is held to the following effect:

"Gradings to be communicated within a reasonable period so that employee concerned gets an opportunity of representation for improvement of his grading and representation to be decided fairly and within a reasonable period by an authority higher than the one which made the entry. Appellant's promotion is directed to be reconsidered after giving him opportunity of representation against entry in confidential report - Further direction issued for grant of back wages, higher pension and interest @ 8% p.a. in case the appellant is found fit for promotion from due date."

The petitioner's case is that his confidential reports do contain that there are at least two "Very Good" gradings, but the impugned order is silent on this aspect and the respondents have not even furnished information with any adverse remark against the petitioner based on the confidential report as to his eligibility criterion for consideration of his case for promotion to the Grade of Deputy Armament Supply Officer (Non-Functional Selection Grade) on par with his juniors. There is justification on the part of the petitioner in disputing with this fact. However, it is for the petitioner to substantiate his plea before the authorities concerned for reconsideration of his case by placing proper material

regarding entry of his gradings in the Service Record if necessary by obtaining the confidential report. Therefore, having regard to the facts and circumstances of the case and in the light of the view taken by the Apex Court, we are inclined to dispose of the writ petition with the following observation:

“The impugned order dated 22.07.2005 passed by the Tribunal in O.A.No. 889 of 2003 is set aside, and consequently, the petitioner is given an opportunity to make proper representation to the respondents after obtaining necessary services particulars i.e. confidential reports from the authorities concerned, substantiating his plea that he got at least two “Very Good” gradings in the relevant period in order to satisfy the condition of promotion, within a period of four weeks from the date of receipt of a copy of this order, and within two months thereafter, the respondents shall consider the representation that may be submitted by the petitioner and pass appropriate orders thereon, in accordance with law.”

Subject to the above observation, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

05.11.2015

**U.DURGA PRASAD
RAO,J**

bcj

[\[1\]](#) (2008) 8 Supreme Court Cases 725