

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 7778 OF 2015**

Union of India & Anr.	..	Petitioners
versus		
P. C. Choudhary	..	Respondent

Mr. Suresh Kumar for Petitioners.
None for Respondent.

**CORAM: V. M. KANADE AND
M. S. SONAK, JJ.**
DATE : 12 JULY 2016

P.C.:

- 1] The petitioners challenge order dated 7 April 2015 made by the Central Administrative Tribunal (CAT).
- 2] By the impugned order, the CAT has directed the petitioners to grant the respondent deemed date of promotion i.e. 1 July 2008 instead of 1 January 2009, which is the actual date upon which the respondent stands promoted. In effect therefore, the CAT, by the impugned order, has directed the petitioners to treat the respondent as being promoted from 1 July 2008 instead of 1 January 2009.
- 3] Mr. Suresh Kumar, learned counsel for the petitioners has contended that the decision in the case of ***Sukhdev Singh vs. Union of India & Ors.***¹, which has been relied upon by the CAT in the impugned order, applies only prospectively. In any case, Mr. Suresh

¹ (2013) 9 SCC 573

Kumar submitted that uncommunicated remarks in the ACRs are not rendered null and void by virtue of the law laid down in **Sukhdev Singh** (supra), but the mandate only is to communicate such remarks, so that, the employee concerned has a reasonable opportunity to make representation against the same. Mr. Suresh Kumar submits that since these aspects have not been considered by the CAT, the impugned order deserves to be set aside.

4] We have considered the submissions made by the learned counsel for the petitioners, perused the record, as also the impugned order made by the CAT. In our judgment, there is really no case made out by the petitioners so as to warrant interference with the impugned order, particularly considering the meagre relief awarded to the respondent. As noted earlier, the relief granted is to treat the respondent as promoted from 1 July 2008 instead of 1 January 2009, which is the date on which the respondent has actually been promoted.

5] That apart we are satisfied that the issues now raised by Mr. Suresh Kumar really do not arise for consideration in the present petition. The record indicates that the petitioners, perhaps, in compliance with the law laid down in the case of **Sukhdev Singh** (supra) did communicate the remarks relating to the year 2008 to the respondent and in pursuance of such communication, the respondent represented against the same. The petitioners, upon due consideration of such representation, have in fact, expunged the ACRs and upgraded the respondent to the benchmark prescribed. Considering these peculiar facts and circumstances, the CAT in the impugned order, has rightly treated the adverse remarks for the period of 2008 as non existing and on the said basis, granted relief to the respondent.

We see neither any jurisdictional error nor perversity in the approach of the CAT or the reasoning in the impugned order.

6] Accordingly, we dismiss this petition. There shall however be no order as to costs.

(M. S. SONAK, J.)

(V. M. KANADE, J.)

chandka