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**RA-RS-8-C-2016 in
RSA-1534-1989**

JAG RAM VS STATE OF PUNJAB & ANR

Present: Mr. Rajiv Kataria, Advocate and
Ms. Puneeta Sethi, Advocate
for the applicant/appellant.

This application has been filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure (hereinafter called 'CPC'), for the review of the order dated 09.12.2015 on the ground that the appellant had cited various judgments of Hon'ble Supreme Court of India as well as the High Court to show Annual Confidential Report (ACR), which even though bad, if not communicated to a delinquent officer, so far as his promotion is concerned. This Court while deciding the appeal, has held that the said principle of ignoring such an ACR is good only in cases of premature retirement of the Officer, but such law of ignoring such ACR cannot be applicable in those cases, where the promotion of an officer is concerned.

I have gone through the contents of review petition and the judgment rendered in "**Dev Dutt V/s Union of India**" **2008 (3) SCT 429**, in support of the review petition, it has been held that non-compliance of the principle of natural justice is not only fatal to the interest of the employee viz-a-viz, his promotion or other benefits. In the instant case, the claim of the appellant-plaintiff before the trial Court was that he was liable to be promoted

as Scheduled Caste w.e.f. 01.06.1976. However, it has come in evidence that he was considered for promotion for the first time in the year 1976 and for second time, in the year 1978 and lastly in the year 1981. In the year 1976, his identity as Schedule Caste was not established, in essence, he was declined promotion not on account of the adverse entry in the ACR, but for non-identification as Scheduled Caste, for in the Service Book, he was mentioned as Hindu. However, in the year 1978, his ACR was found to be adverse, which was communicated to him and against that, he filed an appeal, but he did not challenge the same. Thus, the ratio decidendi culled out by the judgment in **Dev Dutt's case** (supra), is not applicable to the case, because at the time of the consideration of his promotion in the year 1978, his ACR for that period was considered which had been conveyed, he was promoted only w.e.f. 1981, when his ACR was found to be good.

Keeping in view the aforementioned facts, there is no error apparent on the face of record, and no ground is made out for interference in the application seeking review/recalling of the order dated 09.12.2015.

With the aforesaid observations, the review application is dismissed.

12.02.2016
yogesh

**(AMIT RAWAL)
JUDGE**