

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: April 13, 2018

+ **W.P.(C) 3579/2018 & C.M. 14157/2018**

ARVIND KUMAR SHARMA Petitioner
Through: Mr. V.K. Garg, Senior Advocate
with Ms. Anisha Upadhyay & Ms.Noopur
Dubey, Advocates

Versus

IRCON INTERNATIONAL LTD. Respondent
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Antedating of promotion was sought by petitioner while assailing the gradings for the years 2007-08 upto 2011-12. In the first round of litigation, respondent was directed to consider petitioner's Annual Confidential Reports (ACRs), which had the effect on petitioner's promotion claimed from 1st July, 2010. The consideration of petitioner's ACRs has to be in light of representations made by him.
2. Impugned order of 1st August, 2017 (*Annexure P-29 colly*) reveals that petitioner's Representation of 3rd November, 2016 (*Annexure P-28 colly*) has been considered by the Departmental Promotion Committee in the year 2013 for petitioner's promotion to the post of DGM/Civil, which has been reviewed by Chairman and Managing Director of respondent,

who is said to be the highest Executive Authority of respondent and upon reconsideration, no ground to upgrade petitioner's ACR for the aforesaid period has found favour with the respondent.

3. Learned senior counsel for petitioner assails the impugned order (*Annexure P-9*) on the ground that petitioner was working as DGM (Civil) for the period in question and his ACRs were accepted by Chairman and Managing Director of respondent and as per this Court's order, reconsideration has to be done by the next highest authority i.e. the Board of Directors of respondent-Company. It is submitted that after the Court's order, a reminder of 14th July, 2017 (*Annexure P-28 colly*) was sent to respondent and in the said reminder, the entire case of petitioner was put-forth but it has not been considered in the impugned rejection and so, impugned order (*Annexure P-9*) deserves to be set aside.

4. Despite service of advance notice, none appears on behalf of respondent.

5. After having heard learned senior counsel for petitioner and on perusal of impugned order and the material on record, I find that not only the impugned order, but the Representation (*Annexure P-28 colly*) made by petitioner is equally cryptic. However, petitioner in the Reminder of 14th July, 2017 (*Annexure P-28 colly*) has laid a foundation for effective consideration of petitioner's ACRs in question. Impugned order does not take note of the contents of the Reminder (*Annexure P-28 colly*). Otherwise also, impugned order has been passed by the Chairman and Managing Director of respondent-Company, whereas as per Court's order, reconsideration had to be done by the highest authority, which is the Board of Directors of respondent-Company.

6. In view of aforesaid, this matter is remitted back to respondent to ensure that reconsideration of petitioner's ACRs for the period in question, as referred to above, is undertaken by the Board of Directors of respondent-Company in light of petitioner's stand contained in Reminder of 14th July, 2017 (*Annexure P-28 colly*), within a period of twelve weeks from today and the fate of reconsideration be made known to petitioner, within two weeks thereafter, so that petitioner may avail of the remedies as available in law, if need be.

7. Respondent be apprised of this order forthwith to ensure its compliance.

8. With aforesaid directions, this petition and the application are disposed of.

Copy of this order be given *dasti* to counsel for petitioner.

(SUNIL GAUR)
JUDGE

APRIL 13, 2018

r/s