

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: January 27, 2021

+ W.P.(C) 5765/2020, CM APPL. 20827/2020

DR. ASHOK K. KESHARI Petitioner

Through: Mr. Randhir Jain, Adv.

Versus

INDIAN INSTITUTE OF TECHNOLOGY
& ORS.

..... Respondents

Through: Mr. Arjun Mitra, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the petitioner with the following prayers:

“Under the facts and circumstances mentioned above it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

(a) issue appropriate writ, order and/or directions to the respondents to pay to the Petitioner salary, emolument in the scale of H.A.G with effect from 1. 7.2020;

(b) quash and set aside O.M. No.IITDC/ICON/4(3)/2020/249353 dated 11.08.2020 issued by Respondent no.1 and appoint the Petitioner as Head of Civil Engineering Department of Respondent no.1;

AND

(c) issue such other, further and consequential directions that may be deemed fit and proper in the

interest of justice.”

2. The case of the petitioner in the writ petition is that he joined IIT Delhi in August 1997 as a Lecturer and became Professor on August 11, 2008 in the Department of Civil Engineering. He has been serving the Civil Engineering Department in IIT for the last 23 years. In the last five years, he has published 16 papers in the peer reviewed International Journals and presented 49 papers in national and international conferences.

3. That vide notification issued through email dated May 23, 2020, the respondent No.1 invited applications from eligible candidates to be placed in HAG Scale. On June 05, 2020 petitioner applied through the institute online portal for the same i.e., claiming HAG Scale. However, the scale has been denied to him in a wrongful manner. It is the case of the petitioner and so contended by Mr. Randhir Jain, learned counsel appearing for the petitioner that the petitioner is entitled to be placed in HAG Scale with effect from July 01, 2020.

4. According to Mr. Jain, the petitioner vide his email dated July 17, 2020 sought the reasons from the respondent No.1 for denying the said scale to him as according to him, the said scale has been awarded to many faculty members junior to him and those having less publications.

5. Mr. Jain stated that in response to the petitioner's email, the respondent No.1 vide email dated July 17, 2020 conveyed to the petitioner that only Dean or Member of Committee would tell the process followed while awarding HAG Scale. Mr. Jain has

also referred to a subsequent email dated July 19, 2020 of the petitioner to the respondent No.1 for reconsidering its decision attaching therewith his CV and summary of last five years. In response to this email, the respondent No.1 stated that they are following elaborate process of scrutiny and point based system for selection of HAG Professors and has referred the case of the petitioner to Mr. Sudipto Mukherjee to check any flaws or issues with the process followed in case of the petitioner.

6. That apart, it is the submission of Mr. Jain that the petitioner is also aggrieved by the fact that the petitioner has not been appointed as the Head of the Department of the Civil Engineering. He has drawn my attention to the memorandum dated August 11, 2020 issued by the respondent No.1 IIT appointing Heads of various departments. His grievance is primarily against the appointment of respondent No.2 as Head of Department of Civil Engineering in an arbitrary manner while denying the petitioner his rightful claim to the said position. This according to Mr. Jain is contrary to the practice prevailed in the IIT to appoint the Senior most Professor as Head of the Department.

7. According to Mr. Jain, the appointment being a public appointment, has to be in terms of criteria to be notified in advance. Not only this, the procedure has to confirm to legal and constitutional provisions. It has to qualify and pass the test of being fair and reasonable. However, respondent No.1 has not framed any rules for considering the Professors for being placed in HAG Scale nor there are any rules and regulations for

appointing Heads of Departments. In the absence of rules and regulations, the process has been rendered arbitrary and whimsical against the spirit of Article 14 of the Constitution of India.

8. A counter affidavit has been filed by the respondent No.1 IIT to the writ petition wherein it is stated by Mr. Arjun Mitra that insofar as the plea of the petitioner for grant of HAG Scale is concerned, the same was introduced at the institute as a consequence of the implementation of the recommendations of the 6th CPC communicated by the Ministry of Human Resource Development vide its letter dated August 18, 2009. The relevant portion of the letter *inter alia* stipulates that *upto a maximum of 40% of the posts of Professors at any given point of time will be eligible for AGP of Rs.12,000/- per month after six years' of regular service in AGP of Rs.10,500/- subject to performance evaluation based on research publications, Ph. D supervision, teaching and consultancy service etc.* The above guidelines were approved by the Board of Governors of the IIT on June 30, 2010 and December 06, 2010 being the highest rule making body. The guidelines were further considered by the Board on October 31, 2019, when it discussed a proposal received from the Dean (Faculty), for revising the HAG guidelines and a method of empanelment to address the case of Professors who meet the benchmark as per Council norms, but could not be placed in the scale due to unavailability of slots. The said proposal was approved by the Board in this meeting.

9. According to Mr. Mitra, the above decision of the Board

of Governors indicates that marks are awarded for each activity, in the context of the candidates' area of expertise. Moreover, there is no vested right which accrues in favour of any faculty member to get the HAG Scale, since it is available only to 40% of the Professors and is also subject to performance evaluation.

10. He stated that all the applications that are received from Professors for being placed in HAG scale are subjected to three peer reviews followed by the decision of a Committee of HAG Professors comprising of 20 members, such that the names and identities of the candidates are represented only by a number and are thus kept concealed from the Committee. The recommendations of the Committee are then considered for approval by the Board of Governors and the decision thus taken is then implemented.

11. According to Mr. Mitra, the same process was also followed in the case of the petitioner. In other words, the application of the petitioner, along with that of all other applicants along with the evaluation of the three-member peer review Committee was considered by the Assessment Committee in its meeting held on July, 02 2020. The recommendations of the Assessment Committee were approved by the Chairman, Board of Governors on behalf of the Board of Governors. The same was later placed on August 13, 2020 before the Board of Governors for ratification. He stated that as the petitioner's name was not recommended by the Committee constituted for the purpose. The non-inclusion was clearly done in an impartial manner.

12. In substance, he stated that the recommendation of the

Committee being based on the performance of the candidate, (i) are objective, (ii) are on the basis of guidelines laid down by the Board of Governors and (iii) is purely in terms of merit. That additionally, the petitioner failed to get the requisite minimum 13 marks in the assessment marks in the peer evaluation, which was considered by the Assessment Committee, whose recommendations were approved by the Chairman, Board of Governors; the petitioner got 11.3 marks.

13. Insofar as the appointment to the post of Head of Department is concerned, it was the submission of Mr. Mitra that the non-appointment to the post of Head of Department is also justified as the position of the Head of the Department is provided in Statute 20 of the Institute Statutes, which reads as under:

“20. Head of the Department

(1) Each Department shall be placed in charge of a Head who shall be selected by the Director from amongst the Professors, Associate Professors and Assistant Professors. Provided that when in the opinion of the Director the situation so demands, the Director may himself take temporary charge of a Department or place under the charge of the Deputy Director or a Professor from another Department for a period not exceeding six months.

(2) The Head of Department shall be responsible for the entire working of the Department, such to the general control of the Director.

(3) It shall be the duty of the Head of the Department to see that the decisions of the authorities of the Institute and of the Director are faithfully carried out. He shall perform such other duties as may be assigned to him by the

Director.

14. The Statute governs the appointment of Head of Department. Moreover, there is no rule which requires the Head of Department to be appointed on the basis of seniority only. The Director has the discretion to appoint any person, whether a Professor, Associate Professor or Assistant Professor as the Head of Department. In fact, the Director may himself / herself act as the Head of Department if required. Seniority is one of the consideration. The performance of the candidate and the outcome of the Director's deliberations with faculty members in the academic unit at the time of appointment are also considered. There are various instances wherein the person appointed as the Head of Department, are not senior. The Head of Department is only temporary assignment, a term of which is limited to three years and carries no financial benefits.

15. That apart, the plea of the petitioner that he is senior to respondent No.2 is incorrect as the respondent No.2 is in a higher pay scale. Further, a minor penalty of “*Censure*” was imposed on the petitioner vide order dated March 16, 2010, though this penalty is under challenge before this Court in W.P. (C) 3821/2010, there is no stay against the said order. Further, the institute had passed an administrative order on June 27, 2008 in terms of which the petitioner was debarred from holding any administrative position and from teaching any female students. The order is well within the knowledge of the petitioner. Moreover, the institute has reviewed this order from time to time. The petitioner was also conveyed order dated August 01, 2017 by

which the order dated June 27, 2008 has been continued. The petitioner had not challenged the order dated August 01, 2017. Further the institute has decided to initiate disciplinary proceedings against the petitioner, for which the Board of Governors, in its decision dated March 20, 2020 has directed that a charge sheet be framed against the petitioner.

16. Therefore, according to Mr. Mitra, there are justifiable reasons to deny the HAG Scale to the petitioner and also not appointing him as the Head of the Department in Civil Engineering Department. Mr. Mitra seeks the dismissal of the writ petition.

17. In support of his submission, Mr. Mitra has relied upon the following judgments:

- (i) ***MI Hussain v. N Singh, ILR (2005) II Del 890;***
- (ii) ***National Institute of Mental Health and Neuro Sciences v. Dr. K Kalyan Raman, (1992) Supp 2 SCC 481; and***
- (iii) ***Dalpat Abhasaheb Solunke v. Dr. BS Mahajan, (1990) 1 SCC 305.***

18. Mr. Jain in his rejoinder submissions would submit on the issue of imposition of penalty of “Censure” that certain quarters, feeling jealous of the petitioner and not able to match him in qualitative service, hatched a conspiracy to malign his name and got a false and mischievous complaint made by two Research Scholars, imputing impure motives to the petitioner. No incident as alleged to have happened on January 06, 2007 and January 21, 2007. Two letters were written by the Research Scholars for change of the petitioner as their Supervisor five months after the

alleged incident of misbehavior. Strangely enough, both these letters bear the same date. Hence, no reliance can be placed on the penalty of “Censure” for denying him the Head of Department position.

19. That apart, on June 04, 2008 the petitioner was interviewed for the post of Professor and was found successful to be given professor’s grade which result was kept in the sealed cover, and was given effect to on March 16, 2010, w.e.f. August 11, 2008. The fact that the petitioner has been made Professor and continuing on the same position is a sufficient ground for the respondent No.1 to make the petitioner Head of the Department.

20. He submitted that even, the Censure has not been imposed on the allegations made by two Research Candidates but with regard to remark that came to be made during inquiry proceedings. The same is untenable as no charge sheet was issued for the same and the same is under challenge in the Writ petition No.3821/2010.

21. On the question of HAG, Mr. Jain submitted that the whole process is based on assessment of the candidates made by three Experts from the discipline of the candidate which is clear from the perusal of the score assigned to various candidates. There is no consideration or deliberation or any judgment made by the Assessment Committee. Even the Experts like Professor Ashok Gupta and Professor Manoj Datta, the two Experts out of three were acting to the prejudice of the petitioner and deliberately acted to spoil his service career and thus disqualified to be his assessors. In this regard, Mr. Jain has stated that

Professor Ashok Gupta on October 24, 2007 initiated move to penalize the petitioner and he recommended the major penalty on him. He also moved to debar him from supervising female researchers. Similarly, Professor Manoj Datta raked up the issue of order dated June 27, 2008.

22. Mr. Jain also contested the issuance of a fresh charge sheet in terms of the decision of the Board of Governors dated march 20, 2020 as the same is for extraneous reasons. Mr. Jain has relied upon the following judgments:

- (i) ***B.V. Sivaiah & Ors. v. K. Addanki & Ors., (1998) 6 SCC 720;***
- (ii) ***J.D. Srivastava v. State of M.P. & Anr. (1984) 2 SCC 8;***
- (iii) ***Renu Bakshi v. High Court of Delhi, W.P.(C) 6741/2014, decided on January 11, 2018;*** and
- (iv) ***Anil Kumar Sharma v. I.I.T. Roorkee, W.P.(S.B.)C. No.154/2019,*** decided by the High Court of Uttarakhand at Nainital.

23. Having heard the learned counsel for the parties, the issue(s) which arises for consideration is whether the petitioner is entitled to the Scale of HAG w.e.f July 1, 2020 and also be appointed as Head of the Department, Department of Civil Engineering in the respondent no.1 / Institute. The plea of Mr. Randhir Jain was that there are no rules / regulations / guidelines for the grant of HAG Scale / HOD. This submission of Mr. Jain is not tenable, inasmuch as in terms of Annexure R-1/1, which is an OM issued by the Ministry of Human Resource Development, as adopted by the respondent No.1, the following has been

stipulated:-

“(iv) **Professors**

(1) To be appointed in PB-4 (Rs.37400-67000) with AGP Rs.10,000/- p.m. for direct recruits, minimum pay in the Pay Band to be fixed at Rs.48,000/-

(2) For appointment as Professor, one should have a Ph.D with first class or equivalent with a very good academic record and a minimum of 10 years' experience.

(3) Up to a maximum 40% of the posts of Professors at any given point of time will be eligible for AGP of Rs. 12000/- p.m. after 6 years' of regular service in AGP of Rs.10500/- p.m. subject to performance evaluation based on research publications, Ph.D supervision, teaching and consultancy services etc.”

24. The aforesaid decision has undergone a change whereby the respondent no.1 has decided to fix HAG Scale as Rs.67,000 – Rs. 79,000/- in lieu of AGP of Rs. 12,000/-. That apart, the IIT has adopted the following procedure for grant of HAG Scale:

“1. All the Professors with experience of 6 years or more as on 18.08.2009 be invited to submit an Appraisal Form designed for this purpose. The Assessment Committee will evaluate the application as per the criteria recommended by the inter-IIT Committee constituted by the Directors.

2. At present there are no Professors in the new HAG scale of Rs.67,000-79,000/- and technically all the current Professors having been Professors for more than 6 years as on 18.08.2009 are thus themselves candidates for this

movement. For purposes of first assessment, a Committee consisting of five eminent retired IIT Delhi Professors with Director as its Chairman be constituted. The committee members will be treated at par with the selection committee members for payment of honorarium and TA/DA.

3. The Assessment Committee will be constituted by the Director in consultation with the Chairman, BOG and based on the availability of concerned persons as per the selection schedule.

4. Based on the experience, the process may be fine tuned/modified for subsequent years. In case of any major changes, the approval of the Chairman, BOG would be sought.

5. The movement will be considered effective from 18.08.2009 and subsequently from 1st July of every year. Existing professors will be evaluated on that basis.”

25. Thereafter on October 31, 2019, the Board of Governors of the IIT on a proposal received from the Dean (Faculty) to revise the HAG guidelines and method of empanelment, approved the following guidelines:

“1. Faculty members with a minimum of 6 years of experience as Professor as on July 1 in every year are eligible for the movement to HAG pay scale.

2. Performance assessment of the eligible candidates will be carried out by a Selection Committee appointed by the

Director with approval of the BoG.

3. The performance of each candidate will be assessed based on activity since becoming a Professor, against the activities listed in the table below, in context of the area of expertise of the candidate.

Activity	Group	Inactive	Active	Excellent	Outstanding
Teaching	A	0	1	3	5
Research		0	1	3	5
Sponsored Research	B*		1	3	5
Extension			1	3	5
Administration			1	3	

** In Group B, only 2 best out of 3 activities will be considered.*

4. This table will be used to award an overall performance score to each applicant. Only applicants with overall score greater than or equal to 13 will be eligible to be empanelled for movement to HAG pay scale which implies that in order to be empanelled in the HAG pay scale, the applicant necessarily be 'Outstanding' in at least one of the four activities.

5. The newly empanelled applicants are to be appended to the existing list.

6. Movement to the HAG pay scale will be as per available slots, as evaluated for 1st July of the year.

7. The empanelment list shall be carried over.

8. As of today, i.e. 22.10.2019, the empanelment list is a null list."

26. From the above, it is noted that Professor with six years of experience as of July in every year is eligible for grant of HAG Pay Scale. The performance assessment of all eligible candidates

is carried out by Selection Committee appointed by the Director with the approval of the Board of Governors. The performance is assessed based on the activity since becoming a Professor. That apart, only applicants with overall score greater than or equal to 13 will be eligible for movement to HAG Scale and the same shall be as per available slots as evaluated for July 1 of the year.

27. After the 7th CPC, the HAG Scale has been revised to Pay-Level 15 in the Scale of Rs.1,82,000 – Rs.2,24,100/-. It is the case of respondent no.1 that the Board of Governors constituted a Committee consisting of 20 members with Prof. Sudipto Mukherjee, Dean (Faculty) as its member Convenor. The Committee based on the Peer review carried out by three Professors, wherein the petitioner has secured average marks of 11.3, i.e., less than 13, found the petitioner not fit for being granted the HAG Scale. The Committee had recommended two Professors for grant of HAG Scale in the Civil Engineering Department being Prof. Bhabu Ram Chahar and Prof. Babu J. Alappat. The Committee has also empaneled Prof. Arvind Kumar Nema for grant of the said Scale. I may state here that out of the three assessors who have assessed the work of the petitioner two have given 10 marks each as against 14 by the third assessor, Mr. Jain during his submissions has alleged malafide against these two assessors. I may state here that it is the case of the respondent no.1 that neither the identity of the assessors nor of the candidate assessed is known either to the assessors / candidate. In other words, the name of the candidate so assessed is not known to the assessors. The marks / points are given / awarded by the

assessors without knowing the identity of the candidate. So, the allegation of Mr. Jain of malafide against two assessors shall be unsustainable, as the identity of the petitioner is not known to the two assessors. Further, the petitioner has not made the said Professors / assessors parties in this petition. So, the marks of 11.3 secured by the petitioner as against the minimum 13 marks is a sufficient ground for finding the petitioner not fit for being given the HAG Scale in view of (4) of Para 25 above. That apart, two Professors in the Civil Engineering Department, who have been recommended for grant of HAG Scale against 40% quota and also one Professor empanelled for grant of HAG Scale have not been made parties. Unless they are made parties, no relief can be given to the petitioner as the quota being fixed at 40%, relief can be given to the petitioner only after dislodging one of the candidates recommended / empaneled. Even on merit, I find that representation of the petitioner was placed before Dr. Sudipto Mukherjee, being Convenor of the Committee. Mr. Mukherjee has in his two communications on the representation made by the petitioner has stated as under:

*“Dear Prof. Keshri,
Your submission to the Director regarding elevation to HAG has been referred to the office of Dean Faculty.
As you might know, the assessment for HAG is done by three independent peer reviews of the submission, followed by a decision in a 20-member committee with the candidate names suppressed.*

Review of your submission indicates the following:

- 1. Thirteen journal papers are claimed between 2014-2015 to 2018-2019 sessions as academic publications. The publication entitled "D. L. Parmar and A. K. Keshari, Wastload allocation*

using wastewater treatment and flow Augmentation”, was published in Environmental Modeling and Assessment on 15/08/2013 but has been shown as published between July 2014 and June 2015.

2. In nine instances, journals where your papers have been published do not have any Impact Factor Index assigned to them (based on 2019 data from the Librarian).

3. Four papers claimed to be journal publications were found to be conference proceedings and not archival, as listed by the publisher.

These are misrepresentation of facts and do not indicate level of academic research expected of a faculty moving to HAG level.

Review of your teaching feedback has instances where it is stated that you are habitually late for your classes, especially CVL731.

In light of the observations above and overall performance as a professor during the period under consideration, the committee was in order in putting aside claims to strong academic credentials and credibility, which you have asserted in subsequent notes to the Director.

Regards,

S. Mukherjee

Office of Dean (Faculty)

IIT Delhi”

“Dear Prof. Keshri,

I had been directed to look into discrepancies if any in the case of assessment of your HAG application. I did not hence set out to address your queries. I hope you understand that we are treating your query with discretion and have not made available any of the information supplied by you and the discrepancy noted to others. Your demands for score of others or list of their accomplishment is not admissible for the same reason. The Board resolution in the matter of HAG appointment is however attached for your perusal.

The cumulative assessment indices were not known to the Director, members of the committee or me till the meeting started and identity was number coded. Your accusation of bias is unfounded as the decisions were taken by the committee without knowing identities.

The annual appraisals for the last 5 years form an integral part of the evaluation process, as was indicated in the call for applications. It was hence very presumptive on your part to presume that we "devoted" one month time to "dig out the appraisal forms". It was available to the committee when it met. I only reviewed the elements that could have been assessed wrongly by the panel.

The paper referred to in point 1 is shown as published in 2013 in the Elsevier site, and the print issue was in February 2014. Both dates are outside the range of the reporting period and hence misreported. You may please refrain from persistent attempts to misinform us.

At point 3, the journal site lists the class your publications appear in as "conference proceedings". The same web-page lists another set of issues as "archivaJ". It is expected that you differentiate between the two sets. You may also not ascribe the blame to your students for publishing in conferences and take credit for them in your annual assessment.

At point 5, I stand corrected.

I hope you realise that points at 2, 4 and 6 have no facts which have been contested for me to respond to. A copy of these clarifications is being marked to the Director.

Regards and wish you a productive academic year,

S. Mukherjee

Dean (Faculty)

IIT Delhi"

28. So, I find there is justification in the conclusion of the Assessment Committee in finding the petitioner not fit for grant of HAG Scale. It is a settled law that the judicial review in the matters of assessment / promotion is very limited inasmuch as the Court will not sit as an Appellate Authority over the assessment

carried out by the Assessment Committee on the relative merit of the candidates and come to a different conclusion. [*Reference Dalpat Aba Saheb Solunke and ors. vs. Dr. B.S. Mahajan and Ors. 1990 (1) SCC 305*]. Hence the challenge of the petitioner with regard to non-grant of HAG Scale is clearly unsustainable and liable to be rejected.

29. Even the submission of Mr. Jain that there are no rules / regulations / guidelines for grant of HOD is also unsustainable. Mr. Mitra has drawn my attention to statute 20 (page 7 of the short affidavit), which is reproduced as under, clearly stipulates that an HOD can be made from amongst Professors, Associate Professors, Assistant Professors and even a Director can also take temporary charge of HOD.

“20. Head of the Department

(1) Each Department shall be placed in charge of a Head who shall be selected by the Director from amongst the Professors, Associate Professors and Assistant Professors. Provided that when in the opinion of the Director the situation so demands, the Director may himself take temporary charge of a Department or place under the charge of the Deputy Director or a Professor from another Department for a period not exceeding six months.

(2) The Head of Department shall be responsible for the entire working of the Department, subject to the general control of the Director.

(3) It shall be the duty of the Head of the Department

to see that the decision of the authorities of the Institute and of the Director are faithfully carried out. He shall perform such other duties as may be assigned to him by the Director.”

30. The plea of Mr. Jain that the petitioner being the senior-most was required to be appointed as HOD is also unsustainable. This I say so, (i) keeping in view Statute 20, which I have reproduced above. It is not necessary that a senior-most Professor needs to be appointed as HOD, even an Associate Professor / Assistant Professor, who is not senior to Professor can also be appointed as HOD; (ii) the petitioner is not the senior-most Professor as alleged by Mr. Jain as it is the case of respondent no.1 that respondent no.2 who has been made HOD is drawing higher scale in HAG; (iii) it is the case of respondent no.1 that vide order dated June 27, 2008, petitioner was debarred from holding any administrative assignment and from teaching any female students. This order has been reviewed from time to time and vide order dated August 1, 2017, the order dated June 27, 2008 was continued. Concedingly the petitioner has not challenged the said orders; (iv) the petitioner was also imposed a penalty of Censure, which is under challenge before this Court; (v) that recently on March, 2020, it has been decided by the Board of Governors that a charge sheet be issued to the petitioner for certain omissions and commissions. If that be so, even the denial of HOD to the petitioner is justified. That apart, the petitioner cannot claim as a matter of right, the position of Head of the Department which is only a temporary assignment for three

years without any monetary benefits.

31. In his rejoinder submissions, Mr. Jain has submitted that imposition of penalty of censure is totally untenable as no such incident has taken place. In any case, censure, I have been informed is the subject matter of writ petition No. 3821/2010 filed before this Court. A plea was raised by Mr. Jain that, the censure penalty has been passed in the year 2010, the same cannot have the effect now. The plea is appealing but the denial of HOD to the petitioner is not on that consideration alone. I have already reproduced the reasons, cumulatively, resulted in the denial of HOD to the petitioner. Even the plea of the petitioner that the petitioner having got promotion with retrospective effect, on the same date when “*censure*” was imposed, and hence could not be taken into consideration, is also unsustainable as I have already held, that, there were other factors which resulted in the petitioner not getting the position of HOD.

32. The reliance placed by Mr. Jain on the judgment of ***B.V. Sivaiah & Ors. (supra)***, ***J.D. Srivastava (supra)***, ***Renu Bakshi (supra)*** in support of his contention that (i) parameter of seniority has no relevance in case of candidates appointed on the same date and having equal length of service and that in such case only comparative merit is relevant; (ii) decision is arbitrary where reliance placed on stale entries though promotion given subsequently; (iii) the order of censure cannot result in indefinite black mark on the service record, it only had an finite duration. The judgments have been considered by me and have no applicability, in view of my conclusion above, in the facts of this

case.

33. In view of my aforesaid discussion, I do not find any merit in the petition. The same is dismissed. No costs.

CM APPL. 20827/2020 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

JANUARY 27, 2021*/aky/jg*

