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

+ **W.P.(C) 6411/2010**

ASHWANI KUMAR CHADHA

.....Petitioner

Through: Mr. Puneet Verma and Ms. Kiran
Dharam, Advocates.

versus

**THE SCHOOL OF PLANNING &
ARCHITECTURE & ORS**

.....Respondents

Through: Mr. Ankur Chhibber, Mr. Anshuman
Mehrotra and Mr. Nikunj Arora, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.08.2024

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1. This writ petition has been filed on behalf of the Petitioner seeking the following reliefs:

“(a) A Writ of Certiorari quashing and setting aside the minutes of meeting of the DPC dated 25.2.2010 and its recommendations to the extent that it had not considered the name of the petitioner whereas his juniors were not only considered but promoted on the post of Sr. Assistant on the recommendations of the said DPC being illegal, discriminatory, irrational, arbitrary and unjust;

(b) A Writ of Certiorari quashing the action of the respondent No.3 in writing the ACR for the period 17.8.2005 to 31.3.2006 and 2008-2009 and re-writing the ACRs of the petitioner for the years 2006-2007 and 2007-2008. In February, 2010 without any authority as neither he was the Reporting Officer nor the Reviewing Officer of the petitioner whereas both Reporting Officer and Reviewing Officer under whom the Petitioner had worked for the said period were present in the Department and downgrade the petitioner in the ACRs, on the pretext that the original ACRs for the years 2006-2007, 2007-2008 of the petitioner were misplaced being tainted with malafide and ill-will besides being illegal, objectionable and in violation of the relevant rules;

(c) A Writ of Mandamus directing the Respondents to expunge the adverse remarks given by the respondent No.3 without any authority and thereby downgraded the petitioner in the ACRs for the period 17.8.2005 to 31.3.2006 and for the years 2006-2007, 2007-2008, 2008-2009;



(d) *A Writ of mandamus directing the Respondents to convene a review DPC to consider the petitioner for the post of Sr. Assistant in accordance with the rules and regulations taking into note the ACRs of the petitioner prior to 17.8.2005 and 2009-2010 as the original ACRs of the petitioner for the intervening period i.e. 2006-2007, 2007-2008 has been reportedly misplaced by the respondents and the ACR for the year 2008-2009 were written by the respondent No.3 without any authority and downgrade the petitioner with malafide intention and give notional promotion to the petitioner w.e.f. the date when his juniors were promoted along with all the consequential benefits including notional fixation of pay;*

(e) *A Writ of Certiorari calling for the records of the case;*

(f) *A writ of Mandamus directing the respondents to pay the costs of this petition to the Petitioner.”*

2. Learned counsel for the Petitioner submits that the ACRs for the period 2005-2006 to 2008-2009 have never been communicated to the Petitioner and from the information received under the Right to Information Act, 2005, it is evident that the said ACRs have been graded as ‘Average’ as compared to the earlier ACRs from 1999-2000 to 2005-2006, which were ‘Very Good’, save and except, ACR of 2000-2001, which was ‘Good’ and this explains the non-recommendation for promotion of the Petitioner to the post of Senior Assistant by the DPC convened on 25.02.2010. It is argued that it is no longer *res integra* that all ACRs/APARs have to be communicated annually to the officer reported upon while in the present case, even the ACRs with ‘Average’ gradings have not been communicated.

3. Learned counsel for the Respondents, on instructions, admits that the ACRs for the period 2005-2006 to 2008-2009 have not been communicated, albeit, Petitioner was permitted to inspect them and further states that the ACRs will be communicated within a period of one week from today.

4. It needs no reiteration that the ACRs/APARs have to be communicated to the officer reported upon and in this context, I may allude



to the judgments of the Supreme Court in *Dev Dutt v. Union of India and Others*, (2008) 8 SCC 725; and *Anil Kumar v. Union of India & Others*, (2019) 4 SCC 276; and a judgment of a Division Bench of this Court in *Union of India and Anr. v. V.S. Arora & Ors.* 2012 SCC OnLine Del 3193.

5. From the information received under the RTI Act, Petitioner learnt that his ACRs for the period 2005-06 to 2008-09 are 'Average' and there is no doubt that these have been downgraded. It was, therefore, mandatory for the Respondents to have communicated these ACRs to the Petitioner during the relevant periods and before the DPC was convened on 25.02.2010. In view of the submission made on behalf of the Respondents and in light of the law laid down by the Supreme Court, it is directed that the Respondents shall communicate the aforementioned ACRs to the Petitioner within a period of one week from today to enable the Petitioner to submit his representation. Upon the Petitioner making representation, Respondents shall consider the same and communicate the outcome to the Petitioner within three weeks from the date of receipt of the representation. In the event that the ACR(s) are upgraded, Respondents shall convene a Review DPC and consider the case of the Petitioner for the post of Senior Assistant within four weeks thereafter. All consequential benefits will flow to the Petitioner in case he is promoted. Petitioner will be at liberty to take recourse to legal remedies, if so advised, in case of any surviving grievance. Writ Petition stands disposed of with the aforesaid directions.

JYOTI SINGH, J

AUGUST 9, 2024

B.S. Rohella