

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3424 OF 2024**

Ashwni Kumar s/o. Birendra Singh	... Petitioner
V/s.	
Central Warehousing Corporation	
through it's Managing Director	... Respondent

Mr. Rahul Kate i/b Mr. Suhas S. Deokar for the Petitioner.
Ms Priyanka Mehndiratta for the Respondent.

CORAM	:	M.S. KARNIK & N.R. BORKAR, J.J.
DATE	:	2nd JULY, 2025.

ORAL ORDER (PER M.S. KARNIK, J.)

1. Heard learned counsel for the petitioner and learned counsel for the respondent.

2. Learned counsel for the petitioner submitted that non communicated adverse entries in the Annual Confidential Report ("ACR" for short) for the year 2017-18 were taken into consideration by the Departmental Promotion Committee ("DPC" for short) which was held on 21st October 2022 and 31st October 2022. It is submitted that the petitioner was then working as Assistant General Manager (Technical). It is further submitted that based on ACR / Annual Performance Report ("APAR" for short) for five years, the petitioner's case for promotion to the post of Deputy General Manager (Technical) was considered.

3. Learned counsel for the respondent submitted that the petitioner was duly communicated the adverse ACR by communication dated 21st November 2022. It is submitted that the representation made against the said ACR was rejected.

4. We find that the ACR of 2017-18 was communicated to the petitioner after the DPC meeting was held. The DPC thus took into consideration the ACR of 2017-18 adverse to the petitioner which were not communicated to him.

5. The Hon'ble Supreme Court in ***Abhijit Ghosh Dastidar vs. Union of India and ors.***¹, has held that non-communication of entries in the annual confidential report of a public servant has civil consequences because it may affect his chances of promotion or getting other benefits. Hence, non-communication would be arbitrary and as such violative of Article 14 of the Constitution. The Hon'ble Supreme Court has further observed that the same view has been rendered in the decision of ***Dev Dutt vs. Union of India***².

6. In this view of the matter, the entries of ACR for the year 2017-18 as "good" granted to the petitioner, the same should not have been taken into consideration for being considered for promotion to the higher post.

1 (2009)16 SCC 146

2 (2008) 8 SCC 725

7. Learned counsel for the petitioner submitted that the entries of ACRs for the year 2017-18 were in two parts. For the first 8 months, the entry was “good” and for remaining 4 months, it was ‘outstanding’. According to the learned counsel for the petitioner, the better entry of the two parts should have been taken into consideration. This was objected to by the learned counsel for the respondent.

8. In any case, the entries of ACR for the year 2017-18 which were considered as adverse but not communicated should not have been taken into consideration for being considered for promotion to the higher post.

9. In this view of the matter, the petition is partly allowed. Accordingly, the respondent is directed to convene a review DPC within a period of three months from the date of uploading of this order without taking into consideration the ACR for the year 2017-18.

10. The Petition is disposed of in the aforesaid terms.

(N.R. BORKAR, J.)

(M.S. KARNIK, J.)