



219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-776-2020 (O&M)
Reserved on: 12.05.2025

Pronounced on: 16.05.2025

State of Haryana ...Petitioner

Vs.

Jagmohan Sharma and others ...Respondents

CWP-27994-2019 (O&M)
Date of Decision: 12.05.2025

Ranbir Singh Dhull ...Petitioner

Vs.

Union of India and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE H.S. GREWAL**

Argued by: Mr. Ravi Dutt Sharma, DAG Haryana for the petitioner
in CWP-776-2020.

Mr. G.S. Bal, Sr. Advocate with
Ms. Gurneet Kaur, Advocate for the petitioner in CWP-27994-2019.

Mr. Anil Mehta, Advocate and
Ms. Sukriti Kaur, Advocate for respondent No.1-Jagmohan Sharma
in CWP-776-2020 and respondent No.4 in CWP-27994-2019.

Mr. Arvind Moudgil, Sr. Standing Counsel for UOI/respondent Nos.3
and 4 in CWP-776-2020. (through video conferencing).

Ms. Alka Chatrath, Advocate for UPSC.

SANJEEV PRAKASH SHARMA, J.

1. Both the writ petitions are dealt with together as the same assail the order dated 22.08.2019, passed by the Central Administrative Tribunal, in OA No.050/1575/2018. The facts of the case are being extracted from CWP-776-2020.

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2. The Central Administrative Tribunal (for short 'the Tribunal'), vide order dated 22.08.2019, has directed as under:-

“In the background of aforesaid factual and legal aspects of the matter, we are of the considered opinion that the action of the State Government in not forwarding the names, in consonance with the recommendation dated 04.05.2011 of the UPSC in case of the applicant herein is not accord with the judgment dated 04.04.2014 of the Hon’ble High Court and the action to that extent cannot be sustained in the eyes of law. In view of these facts, the State Government is directed to act in accordance with the recommendations dated 04.05.2011, qua the applicant, against the vacancies of the year 2008-2009, only, which was in issue in earlier indicated lis. It goes without saying that the State would be free to make recommendations, as per subsequent developments, by sending names of eligible officers, against vacancies for the years 2010 onwards. The UPSC is also advised to examine the indicated recommendations dated 04.05.2011, for appointment to IFS qua select list for the years 2008-2009 in accordance with the relevant rules and regulations, and in terms of the abovementioned order of the Hon’ble High Court and if the applicant is found to be eligible therefore, as per his position, extend him the due benefits. The OA is disposed of accordingly. No order as to cost.”

3. Learned counsel for the petitioner(s) states that the order passed by the Tribunal is wholly illegal and unjustified. It is submitted that the recommendations dated 04.05.2011 of the Union Public Service Commission (for short 'UPSC') nowhere recommended the name of the respondent/original-applicant. However, the Tribunal has proceeded to direct the State Government to accord recommendation dated 04.05.2011 qua the

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respondent against the vacancy of the years 2008-2009 only and has further directed that in terms of the order of the High Court, if the respondent is found eligible as per his position, extend him due benefits '*such order goes contrary to the recommendations of the UPSC itself as the UPSC nowhere passed order recommending or selecting the respondent*'. He draws our attention to the recommendation letter dated 04.05.2011, as quoted in the order of the Tribunal itself, which reflects that vide the select list of the year 2008, the names of following officers were recommended :-

1. O.P. Sharma
2. Ram Karan Sharma
3. Rajesh Kumar Gulia
4. Raj Kumar Bhatia

While for the year 2009 (eligibility for the year 2008-2009), the names of following officers were recommended :-

1. Malkiat Singh
2. Ved Prakash
3. Surinder Singh

4. It has also been pointed out that so far as the respondent is concerned, he had wrongfully preferred an appeal before the Tribunal seeking implementation of recommendation while he was merely in the zone of consideration but persons senior to him had been recommended, thus, no right was created in his favour. Learned counsel further submitted that so far as the respondent is concerned, he had earlier preferred an OA which was decided on 15.02.2017, wherein he submitted that his assessment was

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downgraded from 'outstanding' to 'very good' by the UPSC in its meeting held on 04.05.2011. A prayer was made to revise the recommendations of 4th May, 2011. However, the said OA was dismissed. It is submitted that in the said OA, the Tribunal acknowledged the fact that a new eligibility list has been prepared for reconvening the selections for the vacancies for the years 2008-2009 afresh and in this regard, State of Haryana has written a letter on 28.08.2012, requesting the UPSC to return the complete record of the State of its serving officers, so that, fresh proposal may be sent. The Tribunal also noted that the State of Haryana has prepared and redrawn the revised seniority list of SFS Officers and a fresh panel of eligible officers as per the latest seniority list would be sent to the UPSC for consideration of names for induction into IFS cadre. After the dismissal of the said OA on 15.02.2017, the present order in the OA came to be passed, which could not have been done, as the name of the respondent had never been recommended. He has also invited attention to the seniority list prepared on 04.01.2017 and published on 03.02.2017, wherein the seniority position of the respondent had been revised. The said revised seniority list has not been challenged by the respondent.

5. Counsel appearing in another writ petition has also pointed out that a charge sheet has been served on the respondent on 09.04.2015 and 10.12.2015 and an FIR No.1 dated 29.01.2015, has also been registered against him. He submits that the respondent has played mischievously and merely because he was included in the zone of consideration, would not mean that any cause of action has arisen in his favour nor it can be said that the recommendations were made for promoting him in IFS cadre.

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6. Per contra, counsel appearing for the respondent- Jagmohan Sharma, submits that his name was included in the zone of consideration and, therefore, qua him there could have been no revision.

7. Having noticed all the facts which have come on record, it is apparent that the seniority list which was existing prior to 2011, a select committee was convened as per rules to make recommendations for promotion from State Forest Officers to the IFS cadre and so far as the respondent is concerned, his name was also considered in view of him being within the zone of consideration as per his existing seniority. However, there is no recommendation in favour of the respondent and the respondent has mischievously misguided the Tribunal which resulted in directions to grant benefit to the respondent as if the respondent had been recommended for promotion by the Select Committee vide its recommendation dated 04.05.2011. On the other hand, we also notice that the order passed by the Tribunal dated 15.02.2017 in the OA preferred by the respondent, the claim of the respondent of down-grading his service record from 'outstanding' to 'very good' by the selection committee in its meeting held on 04.05.2011, was rejected. Thus, he had full knowledge that his name has not been recommended in the recommendations made on 04.05.2011. However, he changed his stand and an order came to be passed by the Tribunal treating the OA to have become infructuous, as fresh consideration was being done by the UPSC relating to the recommendations of the years 2008-2009, based on the revised seniority list of State Forest Officers. When he could not get relief therein, he preferred the present OA, wherein he made submissions totally just opposite to the earlier stand and submitted that the recommendations of

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04.05.2011 could not have been tinkered with and revised selection process or reconvening of selection committee for the years 2008-09, 2012-13 and 2015-16 was unjustified. The Tribunal proceeded to hold that in terms of the order passed by the Hon'ble Supreme Court upholding the recommendations of 04.05.2011, the State could not change its stand and make the recommendations dated 04.05.2011 as infructuous. It, therefore, directed to make appointments in accordance with the recommendations dated 04.05.2011 without noticing that in the said recommendations name of the respondent does not appear.

8. We have been told that revised select list has been prepared for the year 2020 and promotions have also been granted. In the circumstances, we find that the present OA preferred by the respondent was ill-conceived and was an attempt to create chaotic situation which cannot be allowed.

9. We accordingly set aside the directions issued by the Tribunal vide its order dated 22.08.2019 and allow these writ petitions and also impose cost of Rs.20,000/- upon respondent – Jagmohan Sharma, to be deposited with the State for creating vexatious litigation.

10. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(H.S. GREWAL)
JUDGE

16.05.2025

rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No