



2025:DHC:11695-DB



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

***Reserved on: 11.11.2025***  
***Pronounced on: 22.12.2025***

+ **W.P.(C) 9600/2023**

**DEEPAK SHERAWAT**

.....Petitioner

Through: **Mr.Rajesh Kumar Gautam and  
Mr.Bhumit Solanki, Advs.**

versus

**REGISTRAR GENERAL, HIGH COURT OF DELHI AND  
ORS.**

.....Respondents

Through: **Ms.Padma Priya and  
Ms.Poornima, Advs.**

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

## **J U D G M E N T**

### **NAVIN CHAWLA, J.**

1. This petition has been filed by the petitioner, praying for reconsideration of his promotion to the Delhi Higher Judicial Service ('DHJS') as on 15.11.2019, by taking into account his upgraded Annual Confidential Report ('ACR') graded as 'B+' for the year 2018.

### **FACTS OF THE CASE:**

2. The brief facts giving rise to the present petition and thereafter, are that the petitioner was appointed in the cadre of the Delhi Judicial



Service ('DJS') on 29.03.2007 and was uninterruptedly awarded Grade 'A' in his ACRs from the year 2012 to 2017.

3. In 2018, however, his ACR was downgraded to Grade 'B', which was communicated to the petitioner by the respondent no. 1, *vide* letter dated 27.11.2019.

4. In the meanwhile, a Scrutiny Committee Meeting was held on 02.11.2019 to consider filling up, on a temporary basis, the posts lying vacant under the 65% promotion quota on the basis of merit-cum-seniority from amongst the officers of the DJS in the Grade of Civil Judge (Sr. Division) to the DHJS. The said Committee considered the eligible officers for promotion on the following criteria:

*"The names of those officers be recommended for promotion against vacant posts who have got B+ grading for the year 2018 and at least two B+ gradings during the last four preceding years, i.e. during years 2014 to 2017. It is also to be taken into account whether any serious complaints against any of the officers recommended for promotion is pending or not till date."*

5. As the petitioner had been awarded Grade 'B' in the ACR for the year 2018, he was not found fit for promotion to the DHJS.

6. Based on the recommendations of the Scrutiny Committee, a list of the officers of the DJS being appointed/promoted to the DHJS was issued *vide* Notification dated 15.11.2019, which did not include the petitioner.

7. It is the case of the petitioner that, being placed at Serial No. 15 in the seniority list, he would have been entitled to promotion but for



his adverse ACR, which had not been communicated to him at the relevant time.

8. It is further the case of the petitioner that the aforesaid downgrading of his ACR was not communicated to him till December 2019, and that he became aware of the same only upon learning of his exclusion from the process for promotion to the DHJS.

9. Accordingly, the petitioner submitted a representation dated 04.09.2020 to the respondent no. 1, requesting that his ACR for the year 2018 be reviewed and upgraded, and that his seniority be restored by granting him promotion.

10. The said representation was partly accepted by the respondent, and the petitioner's ACR Grade for the year 2018 was upgraded from 'B' to 'B+'. The same was communicated to the petitioner *vide* letter dated 14.10.2022 issued by the respondent no. 1, addressed to the learned Principal District & Sessions Judge, Shahdara, Karkardooma, Delhi.

11. In the meantime, a complaint was filed against the petitioner by one Mr. Jaggi, alleging that the petitioner had obtained his Law Degree from Agra while he was employed as a Lower Division Clerk ('LDC') in the Delhi Courts. It is alleged that the working hours of an LDC in the Delhi Courts are from 10:00 am to 5:00 pm, and during the said period, the petitioner had also pursued his Law course and obtained a degree, thereby suggesting that he was not a regular student of Agra University. On this basis, he was accused of having concealed material facts at the time of his appointment as an officer of the DJS.



12. The case of the petitioner for promotion was again placed before the Scrutiny Committee in its meeting held on 01.02.2023, however, consideration on the same was deferred till a decision is taken on the two complaints pending against the petitioner. The relevant extract from the Minutes of the Meeting is reproduced hereinbelow:

*“Mr. Deepak Sherawat, was not recommended for promotion to DHJS in the meeting dated 02.11.2019 for the reason he did not meet the benchmark of B+ in the year 2018. The officer represented against the grading of 'B' given for the year 2018. His grading has now been upgraded to B+ for the year 2018. However, on perusal of the record, it is apparent that two complaints are pending against the officer. It is, therefore, resolved that consideration on his representation seeking promotion/ restoring his seniority be deferred till the decision is taken on the pending complaints against the officer.”*

13. The case of the petitioner was thereafter again placed before the Scrutiny Committee in its meeting held on 10.03.2023, however, consideration on the same was deferred, with a direction that the file be placed before Hon'ble the Chief Justice, Delhi High Court for appropriate orders. The relevant extract from the Minutes of the Meeting is reproduced hereinbelow:

*“Having considered the matter, we are of the view that the issue at hand concerning Mr. Deepak Sherawat may require a revisit by the Hon'ble Chief Justice having regard to the note prepared by the office which is appended at pages 77 and 78 of the file.*



*The Committee is of the view that none of the alternatives suggested by the office can be actioned at present.*

*The Registry is directed to place the file before the Hon'ble Chief Justice for appropriate orders."*

14. Hon'ble the Chief Justice, Delhi High Court, *vide* Order dated 16.03.2023, directed that the matter be placed before the Vigilance Committee for consideration for taking further action.

15. The Vigilance Committee, in its meeting held on 10.05.2023, after considering the letters dated 11.07.2022 and 27.07.2022 addressed by Mr. Jaggi, questioning the qualification of the petitioner, forwarded the complaint to the concerned Principal District & Sessions Judge with a request to obtain and furnish comments of the petitioner on the same. The matter was to be placed again before the Vigilance Committee thereafter.

16. While the matter was pending consideration before the Vigilance Committee, the petitioner filed the present petition.

17. During the pendency of the present petition, the Scrutiny Committee again met on 16.08.2023 to consider the promotion of officers of the DJS to the DHJS. As far as the petitioner is concerned, he was again found unfit for promotion. However, taking cognizance of the present Writ Petition, the Committee recommended that the promotion of the last candidate against the regular vacancy becoming available till 31.12.2023 shall be subject to the outcome of the present petition. As regards the petitioner's representation seeking promotion as on 15.11.2019 and the restoration of his seniority, the consideration



on the same was deferred, pending the outcome of the present Writ Petition. The relevant extract from the Minutes of the Meeting is reproduced hereinbelow:

*“Applying the above criteria to the eligible candidates, Mr. Deepak Sherawat is not found fit for promotion to DHJS as of now. It has been informed that the officer has preferred a writ petition (Civil) No. 9600/2023 titled **“Deepak Sherawat vs Registrar General, High Court of Delhi & Ors.** seeking promotion to the Delhi Higher Judicial Service as on 15.11.2019 by taking into consideration the upgradation of his ACR to 'B+' for the year 2018 and restoring his seniority as on 15.11.2019 and grant of all consequential benefits to him, if found fit for promotion upon such reconsideration.*

*It is recommended that in view of the aforesaid writ petition filed by Mr. Deepak Sehrawat, the promotion of the last candidate against the regular vacancy becoming available till 31.12.2023 is subject to the outcome of the Writ Petition (Civil) No. 9600/2023 titled **“Deepak Sherawat v. Registrar General, High Court of Delhi & Ors.”***

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*Considered. Since the officer has preferred Writ Petition (Civil) No. 9600/2023 titled **“Deepak Sherawat v. Registrar General, High Court of Delhi & Ors.”**, consideration on his representation seeking promotion and restoration of seniority is deferred till the outcome of the aforesaid writ petition filed by the officer.”*

18. As far as the Vigilance Inquiry is concerned, on 09.05.2024, the Full Court of the High Court, while accepting the recommendations dated 07.05.2024 of the Administrative and General Supervision Committee, decided to initiate a Departmental Inquiry under Rule 14



of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, against the petitioner for imposition of a major penalty.

19. The Scrutiny Committee, in its meeting held on 01.08.2024 to consider the promotion of the officers of the DJS to the DHJS, again found the petitioner to be unfit for such promotion. As far as his representation for promotion with effect from 15.11.2019 and restoration of his seniority was concerned, the same was declined, with a decision to await the outcome of the disciplinary proceedings initiated against him. The relevant extract from the Minutes of the Meeting is reproduced hereinbelow:

*“Applying the above criteria to the eligible candidates, Mr. Deepak Sherawat is not found fit for promotion to DHJS as of now. A representation dated 25.1.2024 regarding consideration of earlier representation dated 4.9.2020 seeking promotion restoring seniority has been made by Mr. Deepak Seharawat, DJS. The officer has also preferred a writ petition (Civil) No. 9600/2023 titled "Deepak Sherawat vs Registrar General, High Court Delhi & Ors. seeking promotion to the Delhi Higher Judicial Service as on 15.11.2019 by taking into consideration the upgradation of ACR for the year 2018 to 'B+' and restoring his seniority as on 15.11.2019 and grant of all consequential benefits to him, if found fit for promotion upon such reconsideration. It has been informed that the aforesaid writ petition is still pending before this Court. Meanwhile, the Full Court in its meeting dated 9.5.2024 resolved that an inquiry under Rule 14 of CCS (CCA) Rules, 1969 for imposition of major penalty be initiated against Mr. Deepak Sherawat and in its subsequent meeting dated 4.7.2024, the Full Court has resolved to withdraw the judicial work from the officer till further orders.*



*In view of the above, consideration on the representation of Mr. Deepak Sherawat seeking promotion restoring seniority is deferred to await the outcome of the disciplinary proceedings initiated against him.”*

20. On the above facts, the issue for consideration before us is whether the petitioner is entitled to a review of his consideration for promotion with effect from 15.11.2019.

**SUBMISSIONS ON BEHALF OF THE PETITIONER:**

21. The learned counsel for the petitioner submitted that the ACR for the year 2018 was communicated to the petitioner through a letter dated 27.11.2019 and the same was received by the petitioner only in December 2019. In the meantime, the Scrutiny Committee had already convened and held its meeting on 02.11.2019, and considered the names of the eligible judicial officers for promotion. Thus, prior to the promotions being effected, the petitioner was not accorded an opportunity to make a representation against his adverse ACR. He submits that the petitioner was not considered for promotion in the year 2019, only on the basis of this uncommunicated adverse ACR for the year 2018. Placing reliance on the Judgments of the Supreme Court in *Dev Dutt v. Union of India & Ors.*, (2008) 8 SCC 725; *Sukhdev Singh v. Union of India & Ors.*, (2013) 9 SCC 566; *Rukhsana Shaheen Khan v. Union of India & Ors.*, (2018) 18 SCC 640; and, *R.K. Jibanlata Devi v. High Court of Manipur*, (2023) 19 SCC 472, he submitted that uncommunicated adverse ACRs cannot be relied upon for denying promotion.



22. He submitted that the pending complaints against the judicial officers who were found fit for promotion in the year 2019, were not considered by the committee as many Judicial Officers were promoted despite the list showing pending complaints against them. Accordingly, the pending complaint against the petitioner was not a ground for rejection of his promotion.

23. He further submitted that the ACR of the petitioner for the year 2018 was later upgraded to 'B+', making him eligible for promotion with the retrospective date of 15.11.2019, along with his juniors. He was, however, still not considered for promotion due to two complaints received and pending against him. He submitted that the petitioner was denied promotion even though at the time of being considered for promotion, no Departmental Inquiry had been initiated against him.

24. He submitted that it was mandatory for the respondent no. 1 to hold a Review DPC once the ACR of the petitioner for the year 2018 had been upgraded to 'B+'. In support, he places reliance on the O.M. No.220131/1/97-Estt.(D) dated 13.04.1998 and on the judgment of this Court in *Ajay Kumar Sinha v. Indraprastha Power Generation Company Limited & Anr.*, 2024:DHC:7089.

25. Placing reliance on the O.M. No.22034/4/2012-Estt(D-II) dated 23.01.2014, he submitted that the Review DPC can take into consideration only the circumstances obtaining at the time of the original DPC, and any subsequent situations arising thereafter will not stand in the way of vigilance clearance for review DPC. As his grade had been upgraded to 'B+', and there were no vigilance proceedings



pending as on the date of the original Screening Committee meeting, nothing else was required to be considered by the Review Scrutiny Committee. He submitted that the Review DPC cannot withhold the promotion on the basis of a subsequent Departmental Inquiry. Even the sealed cover procedure, as contained in the O.M. dated 14.09.1992, cannot be resorted to, if no departmental proceedings or criminal prosecution was pending against the Government Servant, or if such Government Servant had not been placed under suspension at the time of meeting of the original DPC or before the promotion of his juniors based on the recommendations of the original DPC. In support, he placed reliance on the O.M. No.22011/2/99-Estt.(A) dated 21.11.2002. He submitted that therefore, when the Review DPC met on 01.02.2023, 10.03.2023, and 16.08.2023, the case of the petitioner should have been reconsidered and the petitioner was entitled to a promotion with retrospective effect.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 1:**

26. The learned counsel for the respondent no. 1 submitted that an employee does not have a vested right to promotion, and only has a right to be considered for the same. The petitioner was duly considered by the Scrutiny Committee and was even placed in the list of officers within the zone of consideration for promotion to the DHJS on 02.11.2019. However, he was found unfit for the said promotion on evaluation of his service records, as he did not meet the benchmark criterion of 'B+' ACR Grade for the year 2018. Upon the revision of his ACR to 'B+', the Scrutiny Committee again considered the case of



the petitioner in its meeting held on 01.02.2023, however, in the meanwhile, another complaint was received against the petitioner. Accordingly, his representation seeking promotion and restoration of seniority was deferred till a decision was taken on the complaints pending against him. She submitted that the decisions of the Scrutiny Committee were undertaken strictly in accordance with law and the established procedures and hence, cannot be tested in judicial review.

27. The learned counsel for the respondent no. 1 further submitted that Rule 27 of the Delhi Higher Judicial Service Rules, 1970 provides that where for any matter no provision or insufficient provision has been made in the Rules, the Rules, Directions or Orders applicable to the officers of comparable status in the Indian Administrative Service and serving in connection with the affairs of the Union of India, shall be applicable. She submitted that Clause 4.2.5 of Chapter 54 in Swamy's Complete Manual on Establishment and Administration (in short, 'Manual') provides that if the integrity of an eligible candidate is suspect or has been held in doubt at one stage or another, the same should be recorded and notified to the DPC. Furthermore, paragraph 11.1 read with paragraph 11.2 of the Manual provides that the cases of officers under suspension or facing disciplinary proceedings or against whom a charge-sheet in a criminal case has been filed, are to be placed under sealed cover until exoneration. She submitted that in terms of paragraph 6.3.1 of the Manual, while preparing a panel for promotion, the DPC shall assess the overall grading of each officer based on the Confidential Reports and other relevant records. The integrity concerns must be factored into the evaluation process and,



where the officer's integrity has been doubted, such concerns must be recorded and taken into account before making any recommendations. She submitted that the consideration of the case of the petitioner was therefore strictly in accordance with the applicable Rules, and deserves no interference from this Court.

28. The learned counsel further submitted that the disciplinary proceedings initiated against the petitioner relate to testing the validity of the LL.B. degree of the petitioner, on the basis of which he qualified for appointment as an officer in the DJS. Thus, the complaints pending against the petitioner were of a very serious nature and, if proved, would have the effect of vitiating his very appointment. The documents received from the Office of the learned Principal District & Sessions Judge (HQs), Tis Hazari Courts, *vide* letter dated 16.09.2023, *prima facie* show that the petitioner did not inform the officer concerned or seek permission for pursuing LL.B. Degree while working as an LDC. Additionally, the petitioner's qualification had not been taken on record as he had never brought the original degree for verification.

29. The learned counsel for the respondents submitted that Judicial Service is different from ordinary service. Placing reliance on the Supreme Court judgment in ***Rajendra Singh Verma & Ors. v. Lt. Governor (NCT of Delhi) & Ors.***, (2011) 10 SCC 1, she submitted that the Judges are discharging their functions while exercising the sovereign power of the State, and their honesty and integrity is expected to be beyond doubt and should be reflected from their overall



reputation. She submits that in such a scenario, a judicial officer against whom a departmental inquiry is pending, cannot be promoted.

### **ANALYSIS AND FINDINGS**

30. We have considered the submissions of the learned counsels for the parties.

31. From the above narrations of facts, it would be evident that when the Scrutiny Committee met on 02.11.2019 to consider the matter regarding promotion of the officers from the DJS to the DHJS, it *inter alia* considered the ACR of the petitioner for the year 2018, which, at that time, stood as 'B', making him ineligible for promotion on the basis of the criteria adopted by the Scrutiny Committee for making such promotion. The said ACR, till the meeting of the Scrutiny Committee, had not been communicated to the petitioner. The same, therefore, could not have been taken into consideration by the Scrutiny Committee. The law in this regard is well settled and we may only make reference to the celebrated judgment of the Supreme Court in ***Dev Dutt*** (supra) in this regard.

32. Once it is held that the Scrutiny Committee meeting held on 02.11.2019 had acted contrary to the Rules and the law settled by the Supreme Court by taking into account the uncommunicated adverse ACR of the petitioner, the petitioner is entitled to demand a Review DPC.

33. Further, in the present case, on the representation of the petitioner, the ACR of the petitioner for the year 2018 had, in fact, been upgraded to 'B+', making him eligible for the promotion. Therefore, in terms of the criteria adopted by the Scrutiny Committee,



in its meeting held on 02.11.2019, the petitioner was entitled to consideration for promotion.

34. In Order dated 13.11.2019 passed in SLP(C) No. 27336/2018, titled ***Lalit C. Joshi v. Bank of Baroda & Ors.***, the Supreme Court has, in fact, held that even where the representation against adverse ACR remarks is rejected later, as the DPC had taken into account the uncommunicated adverse ACR, a Review DPC has to be held by ignoring the said adverse entry. The same was reiterated in ***R.K. Jibanlata Devi*** (supra). We may also usefully refer to the case of ***Prabhu Dayal Khandelwal v. Chairman, Union Public Service Commission & Ors.***, (2015) 14 SCC 427, in this regard.

35. This now brings us to the deferment of the re-consideration of the case of the petitioner by the Scrutiny Committee in its meeting held on 01.02.2023, wherein his case was deferred on account of the two complaints received and pending consideration against him. In our view, the said decision of the learned Scrutiny Committee cannot be sustained in view of the law settled by the Supreme Court in ***Union of India & Ors. v. K.V. Jankiraman & Ors.***, (1991) 4 SCC 109, and the O.Ms. dated 14.09.1992 and 25.10.2004, which provide the limited circumstances where the DPC may resort to a sealed cover procedure; these are as under:

“(i) Government servants under suspension;  
(ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and  
(iii) Government servants in respect of whom prosecution for a criminal charge is pending.”



36. Admittedly, none of the above three circumstances were prevailing against the petitioner as on 01.02.2023, 10.03.2023 and 16.08.2023. The Scrutiny Committee should, therefore, have proceeded with the case of the petitioner as a Review DPC. There was no warrant for deferment of the reconsideration of the case of the petitioner only because of the two complaints been received against him.

37. This now brings us to the effect of the Departmental Inquiry that has now been initiated against the petitioner. The O.M. dated 23.01.2014 sheds light on the same, as under:

***“OFFICE MEMORANDUM***

***Subject: Comprehensive review of instructions pertaining to vigilance clearance for promotion—clarifications - regarding***

*The undersigned is directed to refer to the Department of Personnel & Training O.M. of even number dated 2.11.2012 on 'Comprehensive review of instructions pertaining to vigilance clearance for promotion', wherein, inter alia, it has been laid down in Para 9, as under:*

*"For the purpose of vigilance clearance for Review DPC, instructions exist in O.M. No.22011/2/99-Estt(A) dated 21.11.2002 that review DPC will take into consideration the circumstances obtaining at the time of original DPC and any subsequent situation arising thereafter will not stand in the way of vigilance clearance for review DPC. However, before the officer is actually promoted it needs to be ensured that he/she is clear from vigilance angle and the provision of para 7 of O.M. No.22011/4/91-Estt.(A) dated 14.09.1992 are not attracted".*

*2. This Department has been receiving references seeking clarification on grant of*



*promotion in case of review DPC with regard to the official who is clear from vigilance angle on the date of promotion of the junior in the original DPC but subsequently attracts the provisions contained in para 2 of DoPT OM dated 14.09.92.*

*3. The matter has been examined in consultation with the Department of Legal Affairs and it is further clarified that, in the case of a review DPC, where a junior has been promoted on the recommendations of the original DPC, the official would be considered for promotion if he/she is clear from vigilance angle on the date of promotion of the junior, even if the provisions of para 2 of DoPT OM dated 14.9.92 get attracted on the date the actual promotion is considered, as provided in DoPT O.M. No.22011/2/99-Estt (A) dated 21.11.2002.*

*4. In cases, where the junior is not promoted, it is to be ensured that the provisions of para 7 of OM dated 14.9.1992 are not attracted on the date the official is being actually promoted.”*

38. A reading of the above would show that where a junior has been promoted on the recommendations of the original DPC, the official would be considered for promotion, if he/she was cleared from the vigilance angle on the date of the promotion of the junior. Therefore, the Review DPC of the petitioner has to be held notwithstanding the Departmental Inquiry initiated against him.

39. Therefore, the decision of the Scrutiny Committee meeting held on 01.08.2024, deferring the recommendation of the case of the petitioner due to the pendency of the Disciplinary Proceedings against him, also cannot be sustained.



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40. In view of the above, we dispose of the present petition, holding as under:

- a) The recommendations of the Scrutiny Committee meeting held on 02.11.2019, insofar as it relied upon the uncommunicated Adverse ACR of the petitioner for the year 2018, cannot be sustained and is set aside *qua* the petitioner;
- b) The case of the petitioner shall be reconsidered by the Scrutiny Committee in the form of a Review Scrutiny Committee, taking into consideration the material, as also the vigilance clearance relevant to the petitioner as on 02.11.2019. Such exercise must be completed within a period of four weeks from the date of this Judgment;
- c) The recommendation of the Scrutiny Committee shall be given effect to, in accordance with the law and the relevant guidelines issued by the DoP&T in this regard.

41. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**DECEMBER 22, 2025/Arya/YG**