



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 9th January, 2026.

Pronounced on: 10th March, 2026.

Uploaded on: 10th March, 2026.

+ W.P.(C) 7913/2018

INDERJEET SINGH SIDHU

.....Petitioner

Through: Mr. SN Kaul and Mr. Vinod Z., Advs.
versus

UNION OF INDIA & ORS

.....Respondent

Through: Ms. Anju Gupta & Mr. Bhuvan Goel,
Advs for UOI.
Mr. Saurabh Mishra, Mr. Abhinav
Pandey and Mr. Shrimay Mishra,
Advs. for R-2 to 4.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. This petition questions the legality of the “Unsatisfactory” grading recorded in the Petitioner’s Annual Confidential Report¹ for the year 2015-2016, and the decision communicated on 11th August, 2017 rejecting his representation. The challenge is to the fairness and legality of the process by which an adverse assessment was recorded, endorsed, and then defended by the very authority whose endorsement was under challenge.

Facts

2. The Petitioner joined EdCIL (India) Limited in August, 2008 as General Manager (Civil & Procurement) and was subsequently re-designated as Chief General Manager. He asserts that his ACRs were



consistently graded “Outstanding” or “Very Good” until the impugned year 2015-2016. He submits that for 2015-2016, targets were fixed at the beginning of the year on 1st April, 2015 and were later revised and supplemented on 23rd December, 2015, leaving an unworkable period for completion. The Petitioner also relies on contemporaneous material to say that the concerned division faced structural constraints, including shortage of technical manpower and project-gestation characteristics, which were placed before the management in writing.

3. The Petitioner further asserts that during the relevant year he met with an accident on official duty at Srinagar (Uttarakhand) on 28th August, 2015, underwent surgery on 16th September, 2015, and remained under medical restriction for a substantial period.

4. He resigned from service with effect from 20th June, 2016. His case is that he had submitted the self-appraisal/ACR proforma on 30th May, 2016, and the subsequent delay in finalisation of the ACR was attributable to the Respondents.

5. The Petitioner contends that he learnt of the “Unsatisfactory” grading through RTI. He thereafter made representations, culminating in a representation dated 13th July, 2017 addressed to the competent authority. The rejection was communicated on 11th August, 2017. He also relies on a further communication dated 4th September, 2017 indicating that the Reviewing Authority and the Appellate Authority were treated as the same, namely the Chairman and Managing Director.

Petitioner’s Submission

6. Petitioner raises the following grounds in support of the petition:

¹ “ACR”



6.1. The challenge is directed not at the merits of the performance assessment but at the legality and fairness of the process culminating in the “Unsatisfactory” grading for the year 2015-2016 and the rejection of the Petitioner’s representation on 11th August, 2017. It is contended that the process suffers from procedural irregularity and violation of principles of natural justice.

6.2. The Petitioner’s ACRs prior to 2015-2016 were consistently graded “Outstanding” or “Very Good”. The sudden downgrading to “Unsatisfactory” is unsupported by any contemporaneous reasoning or material on record.

6.3. The targets for the relevant year were initially fixed on 1st April, 2015 by the Reporting Officer and were subsequently revised on 23rd December, 2015, when a substantial part of the year had already elapsed. This belated revision rendered achievement of the revised targets impracticable.

6.4. The alleged shortfall was attributed solely to him, even though the targets were implemented through a team structure within the same vertical. It is argued that other officials involved in the same activities were not subjected to adverse grading.

6.5. Emphasis is also placed on staff constraints during the year, particularly transfer out of the Deputy Manager (Procurement), described as a key team member, without replacement until year-end. Respondent No. 3’s own endorsement in the self-appraisal records that the Key Result Areas² assigned to “Shri Punit Seth, Deputy Manager (Procurement)” was not taken into account due to his transfer out from the division. The Petitioner treats this as a clear admission that deliverables were affected by staff movement



and that the constraints were not a later invention.

6.6. The Petitioner met with an accident while on official duty at Srinagar (Uttarakhand) on 28th August, 2015, underwent surgery on 16th September, 2015, and remained under medical restriction for a considerable period thereafter, which affected his ability to oversee departmental work.

6.7. Reliance is also placed on a contemporaneous note dated 29th May, 2015 (Annexure R-1), originated by the Petitioner and routed through Respondent No. 3 to Respondent No. 2, highlighting constraints faced by the division and proposing a roadmap. It is argued that this demonstrates the constraints were on record yet ignored.

6.8. The ACR does not disclose any contemporaneous warning, advisory, or mid-term assessment indicating dissatisfaction with the Petitioner's performance. Particular reliance is placed on the remark in the functional performance segment stating that "Nothing is recorded here as the officer is under relieving."

6.9. The adverse grading was not communicated within a reasonable time and came to the Petitioner's knowledge only through information obtained under the Right to Information Act.

6.10. The representation against the adverse grading was decided by the same authority who had endorsed the adverse remarks, namely the Chairman and Managing Director. This violates the principle that a representation against an adverse ACR entry must be considered by an authority higher, like the Board of Directors, than the one who recorded or endorsed the entry. Reliance is placed on *Dev Dutt v. Union of India*³ and *Sukhdev Singh v.*

² "KRA"

³ (2008) 8 SCC 725.



Union of India.⁴

6.11. The Petitioner also relies on the ACR Rules, 2008 and the Government of India's guiding instructions governing adverse remarks, to contend that the representation ought to have been considered by an authority superior to the Reviewing Authority.

Respondents' Submissions

7. The Respondents oppose the petition on the following grounds:

7.1. The petition discloses no ground for interference under Articles 226/227. The appraisal was conducted in accordance with the prescribed procedure and the applicable rules. The petition is essentially an attempt to invite the writ court to sit in appeal over an assessment of performance, which lies outside the permissible limits of judicial review.

7.2. The Performance Management System adopted by EdCIL in line with the guidelines of the Department of Public Enterprises. Under this system, evaluation is based on measurable parameters comprising Functional Performance Score and Competency Score, weighted at 69% and 31% respectively.

7.3. The Petitioner underperformed and failed to meet key targets or KRA by a wide margin, with reference to parameters such as order book, project revenue, and recovery of old debts. The letter dated 11th August, 2017 is relied upon as the communication of that conclusion while disposing of the appeal.

7.4. The Petitioner's assertion that the targets were imposed unilaterally is disputed. The KRAs for the year 2015–2016 were proposed by the Petitioner himself on 23rd December, 2015, accepted by Respondent No. 3 on 1st

⁴ (2013) 9 SCC 566.



January, 2016, and approved by Respondent No. 2. On that footing, it is urged that having set out and proceeded on those KRAs, the petitioner cannot now resile and contend that the targets were unrealistic or unfair.

7.5. The Petitioner did not raise any constraints or seek revision of targets through the appraisal mechanism during the relevant period, nor did he invoke any mid-term review process. He projected that matters were on track until late, and the constraints now pleaded are, at best, belated.

7.6. On the allegation of staff shortage, the Respondents rely on the Petitioner's own listing of subordinates in the APAR, which included a Deputy General Manager, Advisor (Civil), Building Maintenance Engineer, and Executive Assistant. The Deputy Manager (Procurement) was not shown as a subordinate. Therefore that the staff shortage plea is plainly an afterthought.

7.7. Performance appraisal is individual and role-specific. The Petitioner, being the head of the vertical, cannot rely on collective responsibility to explain shortfalls in performance.

7.8. ACRs are assessed year-wise based on performance during the relevant period. Past gradings have no bearing on the assessment for a subsequent year.

7.9. The Petitioner's medical records reflect a history of a twisting injury to the left knee. The attribution of that injury to official duties is disputed. Even so, EdCIL bore the medical expenses and regularised the petitioner's attendance for the relevant period.

7.10. The interval between the Reporting Authority's assessment dated 30th May, 2016 and the Reviewing Authority's assessment dated 9th January, 2017 is explained on the ground that the Reviewing Authority reviews the



ACRs of officers under his control together, once they are ready, to ensure uniform assessment and application of the bell-curve approach prescribed under the DPE guidelines.

7.11. The Petitioner resigned from service on 20th June, 2016 before the appraisal cycle could be carried through to completion in the usual administrative sequence. In that backdrop, the ACR was not communicated through the routine channel; it was furnished to him later only upon his request under the RTI Act.

7.12. Under EdCIL's HR policy, the Chairman and Managing Director is designated as the Reviewing and Accepting Authority, and also as the Appellate Authority, for executives in the relevant grade. This allocation tracks the DPE-linked administrative model adopted for CPSEs and, by itself, does not offend principles of natural justice.

Analysis and findings:

8. Performance appraisal is, in the first instance, an administrative and managerial assessment. While exercising writ jurisdiction, the court does not turn an appraisal into an appellate exercise on comparative merit. Interference is warranted where the process is tainted by *mala fides*, manifest arbitrariness, non-application of mind, breach of governing norms, or a denial of fair procedure. This judicial discipline, consistently affirmed by the Supreme Court, dictates that while the merits of the evaluation are beyond judicial review, the 'recording,' and 'communication' regarding an appraisal must strictly adhere to the minimum standards of transparency and fairness.⁵

9. The controversy, therefore, falls to be examined on two distinct



planes. The first is procedural fairness: whether the grading that operated to the employee's prejudice was communicated within a reasonable time, whether a meaningful opportunity to represent was afforded, and whether the representation was decided by an authority that could, in fact, grant effective redress. The second is rationality: whether the appraisal, read as a whole, discloses an intelligible basis for the grading, or whether it presents a conclusion without a discernible evaluative foundation. The court's remit is confined to these questions. It does not extend to substituting its own view of performance for that of the reporting hierarchy.

10. The legal position on communication of APAR entries and consideration of representations is settled. In *Dev Dutt*, the Supreme Court addressed a familiar unfairness in appraisal systems. The officer had been graded "Good" for 1993-1994. Though not adverse in form, that grading fell short of the benchmark of "Very Good" prescribed for promotion, and therefore operated to his prejudice. However, the entry had not been communicated, with the result that he was denied a meaningful opportunity to seek review or upgradation, despite the career consequence. In these circumstances, the Court articulated two connected requirements of fairness. First, transparency. Every entry in the APAR that bears upon an employee's prospects must be communicated within a reasonable time, even if the governing instructions do not treat it as "adverse", because "Article 14 will override all rules or government orders." Secondly, the remedy must be real. A representation must be considered objectively by an authority capable of affording effective redress. The same principles were reaffirmed in *Sukhdev Singh*, where the Supreme Court reiterated that every entry in the ACR must

⁵ *State of U.P. v. Yamuna Shankar Misra* (1997) 4 SCC 7.



be communicated within a reasonable time to enable the officer to make a representation for its upgradation.

11. The Petitioner's central complaint is not a quibble over a few marks. He asserts that the Reviewing Authority, i.e., the CMD endorsed an adverse functional grading and that his representation assailing that endorsement was again decided under the CMD's authority. That contention attracts a settled principle: no one should be a judge in their own cause. In service jurisprudence, its application is practical rather than rhetorical. If the very authority that has authored or endorsed the adverse assessment also decides the representation against it, the exercise becomes structurally vulnerable even if no personal bias is alleged. The Supreme Court in *Dev Dutt* used the memorable expression that such a remedy risk becoming "an appeal from Caesar to Caesar". That expression captures not a suspicion of individual officers, but a systemic concern for impartiality and public confidence.

12. The record does not disclose any scrutiny of the petitioner's representation by an authority independent of the CMD. Where the CMD functions both as the Reviewing or Accepting Authority and as the authority deciding the grievance against that very review, the safeguard of a representation risks becoming illusory rather than real. In such a structure, fairness calls for one of three correctives: a review at a higher institutional level, a mechanism insulated from the earlier endorsement, or Board-level consideration so that the scrutiny is not dominated by the prior conclusion. No such independent application of mind is demonstrated on the present record.

13. The Respondents seek to meet the objection of "same authority" by relying on CPSE practice and EdCIL's HR policy, under which the CMD



acts as Reviewing or Accepting Authority and also as the Appellate Authority for executives in the relevant grade. That submission may explain how the organisation has arranged its hierarchy. It does not, however, conclude the legal enquiry. Administrative convenience cannot dilute the minimum discipline of fair process. The Supreme Court in **Dev Dutt** and **Sukhdev Singh** treated communication of the appraisal entry and consideration of a representation as safeguards with substance, not ritual. A remedy that returns to the very authority which has already endorsed the impugned assessment is vulnerable to the concern articulated in **Dev Dutt**. Unless the record shows demonstrably independent consideration, supported by reasons that engage with the grievance, the arrangement falls foul of the requirement that State action affecting civil consequences must be fair, transparent, and meaningfully reviewable under Article 14.

14. The second procedural infirmity concerns communication. The Respondents say that the Petitioner resigned with effect from 20th June, 2016 and, therefore, the ACR could not be communicated. The Petitioner says he submitted self-appraisal on 30th May, 2016 and the process thereafter was for the Respondents to complete within their prescribed timelines, and that he ultimately learnt of the grading through RTI. On either version, the position remains that the adverse entry carried consequences beyond the Petitioner's tenure in EdCIL. An adverse APAR, particularly an "Unsatisfactory" grading, does not lose its sting because the officer has moved on. It can affect future employment, empanelment, selection processes, and even reputation in professional settings. That reality is precisely why **Dev Dutt** insists on timely communication and an effective opportunity to represent.



15. The explanation that adverse entries are not supplied *suo motu* and are given only under RTI cannot be accepted the Supreme Court's insistence that such entries must be communicated as a matter of fairness. An RTI route cannot be treated as a substitute for a duty to communicate. Nor is it persuasive to place the burden on the officer to "ensure" the ACR process is completed before relieving. Performance appraisal is an internal administrative process, controlled by the employer's service rules. The obligation to complete it within the prescribed time, and to communicate its outcome in a manner consistent with law, rests primarily with the employer.

16. Turning to the substance of the record, it is not necessary, in writ jurisdiction, to undertake meticulous review of each KRA. What is necessary is to see whether the assessment and its confirmation reflect application of mind to the relevant case put forward by the officer. Here, the Petitioner's case is that targets were revised on 23rd December, 2015 after the year had substantially progressed; that staff constraints, including transfer out of a key officer without replacement, impaired deliverables; that a serious knee injury on official duty with surgery on 16th September, 2015 materially affected his ability to discharge duties for a period; and that a contemporaneous note dated 29th May, 2015 placed constraints and a road map on record. The Petitioner also relies on the remark in the functional performance segment stating, "Nothing is recorded here as the officer is under relieving", and contrasts that with the harshness of an "Unsatisfactory" grading. The Respondents contest these grounds, including on the basis that the Petitioner himself submitted KRAs on 23rd December, 2015 and did not record constraints in the APAR.

17. This contested factual terrain makes one point clear: the



representation was not capable of being rejected by a cryptic, non-speaking communication. Where a representation raises specific grounds supported by contemporaneous documents, the decision must reflect that those grounds were examined. The impugned communication dated 11th August, 2017 does not disclose such examination. The deficiency is not cosmetic. It goes to the heart of whether the remedy was real.

18. The cumulative outcome is this. The process leading to rejection of the representation suffers from foundational infirmities: first, the representation was disposed of without a reasoned consideration of the grounds raised; second, the arrangement by which the same authority that endorsed the adverse assessment also adjudicated the challenge to it offends the requirement of an effective and impartial remedy as explained in *Dev Dutt* and reiterated in *Sukhdev Singh*. The circumstances relating to the delayed communication of the entry, and the fact that the Petitioner became aware of it only through the RTI route, further accentuate the procedural unfairness in the appraisal process. These go to the fairness of the decision-making process.

19. For these reasons, the impugned communication dated 11th August, 2017 cannot be sustained. The appropriate course is to restore the representation for independent consideration, and to require a speaking decision dealing with the Petitioner's grounds.

20. For the reasons recorded above, the writ petition succeeds to the extent indicated with the following directions:

20.1. The communication dated 11th August, 2017, is set aside.

20.2. The Petitioner's representation dated 13th July, 2017 is restored for fresh consideration. The reconsideration shall be undertaken by an authority



higher than the authority that reviewed/endorsed the adverse entry, or by an institutional mechanism of constituting a Board which is demonstrably insulated from the earlier endorsement. The decision shall be reasoned, shall deal with the specific grounds raised by the Petitioner, and shall be communicated to the Petitioner within a period of eight weeks from today.

20.3 Subject to the outcome of such reconsideration, the impugned grading and all consequential action founded upon it shall abide by the decision so taken. If the competent authority, upon reconsideration, forms the view that the grading warrants no interference, brief reasons disclosing application of mind shall be recorded. If the grading is modified, the consequential record shall be corrected and all attendant service consequences shall follow in accordance with law.

21. It is clarified that this Court has not adjudicated upon the merits of the Petitioner's performance appraisal. All contentions on merits, including the Respondents' reliance on objective scoring under applicable guidelines, are left open to be considered by the competent authority/mechanism in accordance with law.

SANJEEV NARULA, J

MARCH 10, 2026/ng