

No. 21011/1/2010-Estt.A
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated the 27th April, 2010

OFFICE MEMORANDUM

Subject:- ACRs with below benchmark grading considered in past DPCs-reg.

The undersigned is directed to state that this Department has issued O.M. of even number dated 13.04.2010 that if an employee is to be considered for promotion in a future DPC and his ACRs prior to the period 2008-09 which would be reckonable for assessment of his fitness in such future DPC contain final grading which are below the benchmark for his next promotion, before such ACRs are placed before the DPC, the concerned employee will be given a copy of the relevant ACR for his representation, if any, within 15 days of such communication. The representation is to be decided by the competent authority as per provisions in para 2 of aforesaid O.M.

2. The Hon'ble Supreme Court in their judgement dated 12.05.2008 in Civil Appeal No. 7631 of 2002 (Dev Dutt vs Union of India) had held that the 'good' entry in the ACR of the appellant which had not been communicated to him and considered in a past DPC which found him unfit for promotion, should be communicated for representation and if upgradation is allowed by the competent authority, he should be considered for promotion retrospectively by the DPC. When the petitions in SLP (Civil) No. 15770/2009, now converted to Appeal Civil No. 2872 of 2010 (Union of India vs. A.K. Goel & Ors.) were called for hearing, the Supreme Court has taken note of the apparent conflict between the decisions of the Hon'ble Court in Dev Dutt case on one hand and the judgements of Supreme Court in Satya Narain Shukla Vs UOI 2006 (9) SCC 69 and K.M. Mishra vs. Central Bank of India & Ors. 2008 (9) SCC 120 on the other hand and by their Order dated 29.03.2010, the Hon'ble Court has referred these appeals to a Larger Bench (copy attached).

3. In the light of the Orders issued by Hon'ble Supreme Court in the aforesaid SLP (Civil) No. 15770/2009, Union of India Vs. A.K. Goel & Ors., all Ministries/Departments are advised that wherever petitions have been filed in the Courts to grant relief on the basis of the aforesaid decision of the Supreme Court in Dev Dutt case, the latest Orders of the Supreme Court in A.K. Goel case may be brought to the notice of the Court.


(C.A. Subramanian)
Director

To

All Ministries/Departments of Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi.
3. The Cabinet Secretariat, New Delhi.
4. The Rajya Sabha Secretariat.
5. The Lok Sabha Secretariat.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Union Public Service Commission, New Delhi.

Copy also to:-

- (i) All Attached offices under the Ministry of Personnel, Public Grievances and Pensions.
- (ii) Establishment Officer and Secretary, ACC (10 copies).
- (iii) All officers and Sections in the Department of Personnel and Training.
- (iv) NIC (DoP&T) for placing the Office Memorandum on the web-site of DoP&T.
- (v) Hindi Section for Hindi version of the O.M.

ITEM NO.57

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s) .15770/2009

(From the judgement and order dated 18/07/2008 in WP No. 18706/2005 of The HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA

Petitioner(s)

VERSUS

A.K.GOEL & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,impleadment and prayer for interim relief)

WITH S.L.P. (C)...CC NO. 11585 of 2009

(With appln.(s) for permission to file SLP and c/delay in filing SLP and office report)

Date: 29/03/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s)

Mr. Gopal Subramaniam, S.G.
Mrs. V. Mohana, Adv.
Ms. Sushma Suri, Adv.
Mr. Aman Ahluwalia, Adv.

For Respondent(s)

Respondent-In-Person

Mr. Shakil Ahmed Syed , Adv
Mr. D.K. Thakur, Adv.
Dr. V.P. Appan , Adv
Mr. Aftab Ali Khan , Adv

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

In view of the apparent conflict between the decisions of this Court in Dev Dutt vs. Union of India & Ors. 2008 (8) SCC 725 on the one hand and Satya Narain Shukla vs. Union of India 2006 (9) SCC

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69 and K.M. Mishra vs. Central Bank of India and others 2008 (9) SCC 120, these appeals are referred to a Larger Bench. Let the matter be placed before the Hon'ble the Chief Justice of India for this purpose.

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(O.P. Sharma)
Court Master

SR
(M.S. Negi)
Court Master