



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

% *Judgment Reserved on: 17.03.2026*  
*Judgment Delivered on: 29.05.2026*

+ **LPA 72/2024 & CM APPL. 70543/2025**

**PANKAJ PRAKASH**

.....Appellant

versus

**UNITED INDIA INSURANCE COMPANY LIMITED  
& ANR.**

.....Respondents

**Advocates who appeared in this case**

For the Appellant : Mr. Ravi Kumar, Advocate.

For the Respondents : Mr. Amit Kumar Singh, Ms. K. Enatoli Sema, Ms. Chubalemla Chang, Mr. Chisho G. Kiho, Ms. Rokosieno Meyase and Mr. Prang Newmai, Advocates.  
Mr. P.S. Singh, Advocate for R2.

**CORAM:  
HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE TEJAS KARIA**

**JUDGMENT**

**TEJAS KARIA, J**

1. The present *intra-court* Appeal has been filed by the Appellant assailing the judgment dated 15.12.2023 (“**Impugned Judgment**”) passed by the learned Single Judge in W.P.(C) 44/2021 (“**Writ Petition**”), dismissing the Writ Petition.



## FACTUAL MATRIX

2. Respondent No. 1 is a leading general insurance company, and Respondent No. 2 is the Deputy General Manager of Respondent No. 1 Company. The Appellant joined the services of Respondent No. 1 on 27.11.1989 as a direct recruit in Scale I and was subsequently promoted to Scale II in 1998. Thereafter, the Appellant was promoted to Scale III in 2009.

3. According to the Appellant, the next promotion fell due in the promotion exercise for the year 2014-15, which was conducted on the basis of the written examination, seniority, and Annual Performance Appraisal Reports (“**APARs**”).

4. The Appellant appeared in the written examination and secured 71 marks out of 100. However, upon declaration of the result of the promotion exercise on 29.05.2014, the Appellant was not selected for promotion. The Appellant thereafter filed an application under the Right to Information Act, 2005 (“**RTI Act**”) on 02.06.2014 seeking copies of the APARs for the years 2010-11, 2011-12, and 2012-13. In response thereto, Respondent No. 1, by letter dated 02.07.2014, furnished the final APAR ratings awarded to the Appellant.

5. Subsequently, the Appellant submitted another RTI application dated 04.08.2014, *inter alia*, seeking information from Respondent No. 1 Company regarding the marks obtained by him and the minimum cut-off marks prescribed for the promotion exercise conducted in 2014-15. By letter dated 09.09.2014, the Central Public Information Officer (“**CPIO**”) responded by disclosing the total marks secured by the Appellant in the said



promotion exercise as well as the cut-off marks for promotion from Scale III to Scale IV. The Appellant had also sought the minutes of his interview under the fast-track channel in the promotion exercise of 2014-15; in reply thereto, the CPIO stated that the said minutes could not be furnished as the same were exempt under Section 8(1)(b) of the RTI Act.

6. The Appellant instituted Writ Petition No. 7631(S/B)/2016 before the High Court of Judicature at Allahabad, seeking, *inter alia*, quashing of the result of the promotion exercise undertaken by the Respondents and a direction for consideration of his case for promotion. The said writ petition came to be dismissed by judgment dated 06.10.2016. Thereafter, the review petition preferred by the Appellant, being Review Petition No. 103173/2016, was also dismissed by order dated 17.01.2017.

7. Thereafter, the Appellant preferred Civil Appeal Nos. 5340-5341/2019 before the Hon'ble Supreme Court assailing the aforesaid judgment and order of the High Court of Judicature at Allahabad dated 06.10.2016 and 17.01.2017, respectively, on the ground that the entries in the APARs had not been disclosed to him, thereby depriving him of the opportunity to submit an appropriate representation at the relevant time.

8. *Vide* judgment dated 10.07.2019, the Hon'ble Supreme Court allowed the said Civil Appeals, set aside the judgment and order passed by the High Court of Judicature at Allahabad, and directed the Respondents to communicate to the Appellant the previously uncommunicated entries in the APARs considered for the promotion exercise of 2014-15.

9. The Hon'ble Supreme Court further observed that, upon receipt of the said entries, it would be open to the Appellant to submit a representation to



Respondent No. 1 Company, which representation was to be duly considered. Based on the decision taken thereon, the competent authority was directed to determine whether any modification was warranted in the decision relating to the Appellant's promotion from Scale III to Scale IV for the year 2014-15.

10. In the said judgment, the Hon'ble Supreme Court also noted that the Union of India had issued Office Memorandum dated 14.05.2009 and 13.04.2010 requiring compliance with the decision in *Dev Dutt v. Union of India*, (2008) 8 SCC 725, wherein it was held that every entry in the Annual Confidential Report ("ACR") of a public servant must be communicated to the concerned employee. It was further observed that a specific communication in this regard had also been addressed to public sector insurance companies on 19.10.2012.

11. On 19.08.2019, Respondent No. 1 Company furnished the APARs for the years 2011-12, 2012-13, and 2013-14. According to the Appellant, however, the same were not supplied in conformity with the aforesaid Office Memorandum dated 14.05.2009 and were in derogation of the directions issued by the Hon'ble Supreme Court in its judgment dated 10.07.2019.

12. The Appellant thereafter addressed a letter dated 30.08.2019 to Respondent No. 1 Company contending that the APARs had not been communicated in terms of the directions of the Hon'ble Supreme Court and the instructions contained in the Office Memorandum dated 14.05.2009.

13. In reply to the aforesaid letter dated 30.08.2019, Respondent No. 1 Company, by communication dated 26.09.2019, informed the Appellant that the uncommunicated entries in the APARs for the relevant years 2011-12,



2012-13, and 2013-14 had already been furnished to him by letter dated 19.08.2019.

14. Consequently, the Appellant filed Contempt Petition (Civil) Nos. 1248-1249/2019 in Civil Appeal Nos. 5340-5341/2019, which came to be dismissed by order dated 06.01.2020 passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court observed that, pursuant to the judgment dated 10.07.2019, the APARs had been communicated to the Appellant and, therefore, it was difficult to accept the contention that there had been a breach of the directions contained in the said judgment. At the same time, the Hon'ble Supreme Court clarified that it would remain open to the Appellant to submit an appropriate representation raising all necessary contentions.

15. Pursuant thereto, the Appellant submitted a representation dated 15.01.2020 to Respondent No. 1 Company, reiterating his contentions and enclosing a sample APAR of an officer of Ordinance Factory Services, which, according to him, had been communicated in accordance with the Office Memorandum dated 14.05.2009.

16. Respondent No. 1 Company considered the said representation and, by order dated 21.09.2020, informed the Appellant that no circumstances existed warranting any alteration in the APAR ratings and that the decision taken in the promotion exercise of 2014-15 was correct and did not call for any modification. The said representation was accordingly disposed of.

17. Aggrieved by the aforesaid order dated 21.09.2020, the Appellant filed the Writ Petition before this Court, seeking, *inter alia*, quashing of the said order and a direction to the Respondents to grant him promotion with



effect from 29.05.2014. By the Impugned Judgment, the learned Single Judge dismissed the Writ Petition. Aggrieved thereby, the Appellant has preferred the present Appeal.

### **SUBMISSIONS ON BEHALF OF THE APPELLANT**

18. The learned Counsel for the Appellant submitted that:

- 18.1. The adverse APAR for the year 2011-12 was communicated to the Appellant by Respondent No. 1 Company only on 19.08.2019, i.e., long after the conclusion of the promotion exercise held on 29.05.2014. Nevertheless, the representation submitted by the Appellant on 15.01.2020 came to be rejected on the ground that the APARs had been communicated in a just and proper manner.
- 18.2. Adverse and uncommunicated APARs could not have been reconsidered after a lapse of five years from the conclusion of the promotion exercise and, accordingly, the Appellant's case for promotion ought to have been decided only on the basis of the APARs that were duly available and communicated. The concealment of the overall final grading renders the APARs effectively uncommunicated even as on date.
- 18.3. The Impugned Judgment erroneously proceeds on the premise that the Appellant had been duly afforded an effective opportunity to be considered for promotion in the promotion exercise of 2014-15, which finding is contrary to the material available on record. The conclusion that the belated



communication of the APARs was justified is contrary to the settled position of law.

- 18.4. Respondent No. 1 Company did not issue any caveat or warning to the Appellant prior to recording the adverse APAR for the year 2011-12, despite being aware that the Appellant had received 'Outstanding' APAR gradings both prior and subsequent to the said year. Consequently, the said APAR ought not to have been taken into consideration by Respondent No. 1 Company.
- 18.5. APARs are not the sole criterion governing promotion and that, having regard to his seniority, the Appellant was otherwise entitled to be promoted in the promotion exercise of 2014-15. Reliance is placed on the following decisions of the Hon'ble Supreme Court:
- a. *Dev Dutt v. Union of India*, (2008) 8 SCC 725
  - b. *Sukhdev Singh v. Union of India*, (2013) 9 SCC 566
  - c. *Rukhsana Shaheen Khan v. Union of India and others*, (2018) 18 SCC 640
  - d. *R.K. Jibanlata Devi v. High Court of Manipur*, (2023) 19 SCC 472
- 18.6. In view of the foregoing submissions, it is prayed that the present Appeal be allowed and the Impugned Judgment be set aside, thereby granting promotion to the Appellant with effect from the year 2014.



## **SUBMISSIONS ON BEHALF OF THE RESPONDENTS**

19. The learned Counsel for the Respondents has submitted that:
- 19.1. The Appellant was considered for promotion in the promotional exercise of 2014-15, however, he did not meet the required cut-off marks for promotion.
- 19.2. In accordance with the directions issued by the Hon'ble Supreme Court *vide* judgment dated 10.07.2019 in Civil Appeal Nos. 5340-5341/2019, Respondent No. 1 – Company gave copies of the Appellant's APARs for the years 2011-12, 2012-13 and 2013-14 to the Appellant.
- 19.3. It is well settled in law that promotion is not a fundamental right, instead, the right to be considered for promotion is a fundamental right, which has been held by the Hon'ble Supreme Court in *Union of India v. Sangram Keshari Nayak*, (2007) 6 SCC 704, and *Union of India v. Hemraj Singh Chauhan*, (2010) 4 SCC 290. The Appellant was duly considered for promotion during the 2014-15 promotional exercise, however, he did not meet the required criteria for the same. As the Appellant was given due consideration for promotion, there is no case made out for violation of his fundamental right.
- 19.4. In view of the foregoing submissions, it is prayed that the Appeal be dismissed and the Impugned Judgment be upheld.



## ANALYSIS AND FINDINGS

20. Heard the learned Counsel for the Parties and perused the material placed on record.

21. The Appellant has contended that the adverse APAR for the year 2011-12 was communicated to him only after the conclusion of the promotion exercise for the year 2014-15. It has further been urged that adverse and uncommunicated APARs could not have been reconsidered after a lapse of five years from the conclusion of the said promotion exercise and, therefore, the Appellant's claim for promotion ought to have been considered only on the basis of the APARs that were duly available and communicated at the relevant time.

22. Further, as recorded in the order dated 28.07.2025 passed in the present Appeal, the Appellant has also contended that the Impugned Judgment fails to take into account the effect of the judgment of the Hon'ble Supreme Court in **Rukhsana Shaheen Khan** (supra). The relevant portion of the said order is extracted as under:

*“2. The principal contention of the learned counsel appearing for the appellant is that the impugned judgment does not take into account the effect of the judgment of the Apex Court in **Rukhsana Shaheen Khan v. Union of India and others, (2018) 18 SCC 640.***

*3. The facts of the case reveal that in the promotion exercise 2014-2015, the appellant was to be considered for the promotion to the post of Manager (Scale IV) from Deputy Manager (Scale III). In the said exercise, the Annual Performance Appraisal Reports (APARs) for the years 2011- 12, 2012-13 and 2013-14 were considered and the appellant was granted “B” Grade for 2011-12, “A” for 2012-13 and “A” again for 2013-14. Learned Counsel for appellant states that amongst various other parameters, the APARs had its own significant role in considering the appellant for promotion.*



4. Learned Counsel for appellant further states that the APAR of the year 2011-12 was not communicated to the appellant which is in violation of the law laid down by the Apex Court in **Dev Dutt vs Union of India (2008) 8 SCC 725** and **Sukhdev Singh vs Union of India (2013) 9 SCC 566**. He states that in **Rukhsana Shaheen Khan** (supra), the Apex Court had directed the respondent therein, who had considered the uncommunicated adverse APARs and had denied the requisite promotion to the petitioner therein, to ignore the uncommunicated APARs and take appropriate decision in accordance with law.

5. Learned Counsel for appellant also states that in view of the then prevailing law, which was binding on the respondent, which is an instrumentality of the State, the same should have been adopted in the case of the petitioner, rather than considering the adverse APAR for the year 2011-12 which was not communicated to him for as long as five years, especially while conducting the promotion exercise for the petitioner.

6. We find strength in the aforesaid contentions by learned counsel for appellant. As such, Mr. Amit Kumar, learned counsel for the respondents is directed to take instructions as to why this Court should not follow the procedure adopted in **Rukhsana Shaheen Khan** (supra).”

23. The Hon’ble Supreme Court in **Sukhdev Singh** (supra), relying upon its decision in **Dev Dutt** (supra), held that every entry in the ACR of a public servant must be communicated to him within a reasonable period. The relevant portion of the decision in **Sukhdev Singh** (supra) is reproduced as under:

“3. Subsequent to the above two decisions, in *Dev Dutt v. Union of India* [*Dev Dutt v. Union of India*, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771], this Court had an occasion to consider the question about the communication of the entry in the ACR of a public servant (other than military service). A two-Judge Bench [*Dev Dutt v. Union of India*,



(2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] on elaborate and detailed consideration of the matter and also after taking into consideration the decision of this Court in *U.P. Jal Nigam [U.P. Jal Nigam v. Prabhat Chandra Jain, (1996) 2 SCC 363 : 1996 SCC (L&S) 519 : (1996) 33 ATC 217]* and principles of natural justice expounded by this Court from time to time particularly in *A.K. Kraipak v. Union of India [(1969) 2 SCC 262]* ; *Maneka Gandhi v. Union of India [(1978) 1 SCC 248]* ; *Union of India v. Tulsiram Patel [(1985) 3 SCC 398 : 1985 SCC (L&S) 672]* ; *Canara Bank v. V.K. Awasthy [(2005) 6 SCC 321 : 2005 SCC (L&S) 833]* and *State of Maharashtra v. Public Concern for Governance Trust [(2007) 3 SCC 587]* concluded that every entry in the ACR of a public servant must be communicated to him within a reasonable period whether it is poor, fair, average, good or very good entry. This is what this Court observed in paras 17 and 18 of the Report in *Dev Dutt [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771]* at SCC p. 733:

“17. In our opinion, every entry in the ACR of a public servant must be communicated to him within a reasonable period, whether it is a poor, fair, average, good or very good entry. This is because non-communication of such an entry may adversely affect the employee in two ways: (1) had the entry been communicated to him he would know about the assessment of his work and conduct by his superiors, which would enable him to improve his work in future; (2) he would have an opportunity of making a representation against the entry if he feels it is unjustified, and pray for its upgradation. Hence non-communication of an entry is arbitrary, and it has been held by the Constitution Bench decision of this Court in *Maneka Gandhi v. Union of India [(1978) 1 SCC 248]* that arbitrariness violates Article 14 of the Constitution.

18. Thus, it is not only when there is a benchmark but in all cases that an entry (whether it is poor, fair, average, good or very good) must be communicated to a public servant, otherwise there is violation of the principle of fairness, which is the soul of natural justice. Even an outstanding entry should be communicated since



*that would boost the morale of the employee and make him work harder.”*

*(emphasis in original)*

4. Then in para 22 at SCC p. 734 of the Report this Court in *Dev Dutt* case [*Dev Dutt v. Union of India*, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] made the following weighty observations:

*“22. It may be mentioned that communication of entries and giving opportunity to represent against them is particularly important on higher posts which are in a pyramidal structure where often the principle of elimination is followed in selection for promotion, and even a single entry can destroy the career of an officer which has otherwise been outstanding throughout. This often results in grave injustice and heart-burning, and may shatter the morale of many good officers who are superseded due to this arbitrariness, while officers of inferior merit may be promoted.”*

5. In paras 37 and 41 of the Report this Court then observed as follows: (*Dev Dutt* case [*Dev Dutt v. Union of India*, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771], SCC pp. 737-38)

*“37. We further hold that when the entry is communicated to him the public servant should have a right to make a representation against the entry to the authority concerned, and the authority concerned must decide the representation in a fair manner and within a reasonable period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible.*

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41. In our opinion, non-communication of entries in the annual confidential report of a public servant, whether he is in civil,



*judicial, police or any other service (other than the military), certainly has civil consequences because it may affect his chances for promotion or get other benefits (as already discussed above). Hence, such non-communication would be arbitrary, and as such violative of Article 14 of the Constitution.”*

6. We are in complete agreement with the view in *Dev Dutt [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771]* particularly paras 17, 18, 22, 37 and 41 as quoted above. We approve the same.

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8. *In our opinion, the view taken in Dev Dutt [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] that every entry in ACR of a public servant must be communicated to him/her within a reasonable period is legally sound and helps in achieving threefold objectives. First, the communication of every entry in the ACR to a public servant helps him/her to work harder and achieve more that helps him in improving his work and give better results. Second and equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the principles of natural justice. We, accordingly, hold that every entry in ACR—poor, fair, average, good or very good—must be communicated to him/her within a reasonable period.”*

24. Following the law laid down in *Sukhdev Singh* (supra), the Hon’ble Supreme Court in *Rukhsana Shaheen Khan* (supra) held that uncommunicated and adverse ACRs cannot be relied upon in the promotion process, and directed the competent authority to ignore the uncommunicated and adverse ACRs and take fresh decision in accordance with law. The



relevant portion of the decision in **Rukhsana Shaheen Khan** (supra) is reproduced as under:

*“2. In view of the decision of this Court in Sukhdev Singh v. Union of India [Sukhdev Singh v. Union of India, (2013) 9 SCC 566 : (2014) 1 SCC (L&S) 279] , there cannot be any dispute on this aspect. This Court has settled the law that uncommunicated and adverse ACRs cannot be relied upon in the process.*

*3. This appeal is, accordingly, allowed and the impugned judgment [Rukhsana Shaheen Khan v. Union of India, 2006 SCC OnLine Del 1840] is set aside with the following directions:*

*(a) The competent authority is directed to ignore the uncommunicated adverse ACRs and take a fresh decision in accordance with law.*

*(b) The appellant shall be afforded an opportunity of hearing in the process.”*

25. Similarly, in **R.K. Jibanlata Devi** (supra), the Hon’ble Supreme Court held as under:

*“18. In the present case the petitioner got “Good” gradings for the year 2016-2017 and received “Very Good” gradings in her ACRs for the years 2017-2018 and 2018-2019. It was the specific case on behalf of the petitioner which has not been denied that the ACRs grading of “Good” for the year 2016-2017 was never communicated to the petitioner even till the DPC met. Therefore, as per the law laid down by this Court in catena of decisions more particularly, as observed and held by this Court in Rukhsana Shaheen Khan [Rukhsana Shaheen Khan v. Union of India, (2018) 18 SCC 640 : (2019) 2 SCC (L&S) 401] ; Sukhdev Singh [Sukhdev Singh v. Union of India, (2013) 9 SCC 566 : (2014) 1 SCC (L&S) 279] and Dev Dutt v. Union of India [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] uncommunicated adverse ACRs may be even with “Good” entry which can be said to be adverse in the context of eligibility for promotion is not to be*



*relied upon for consideration of promotion. Therefore, uncommunicated ACR for the year 2016-2017 having the grading “Good” could not have been relied upon for consideration for promotion.*

*19. Similarly so far as the ACR gradings for the year 2019-2020 is concerned, admittedly the same was communicated to the petitioner on 8-4-2021, just one day before the DPC met on 9-4-2021. The petitioner was having 15 days' time to make the representation against the ACR grading for the year 2019-2020. Before the 15 days were over, the DPC met on 9-4-2021 and considered the case of the petitioner for promotion. The submission on behalf of the High Court that the other candidates who were also communicated the ACRs for the year 2019-2020 on 8-4-2021 submitted their representations on 9-4-2021 and therefore the petitioner also could have submitted the representation on 9-4-2021 like other candidates is concerned, it is neither here nor there. The fact remains that the petitioner was having 15 days' time from 8-4-2021 to make a representation. Therefore, either the DPC could have been postponed or the ACR for the year 2019-2020 ought not to have been considered and the same ought to have been treated as uncommunicated ACR.*

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*22. In view of the above and for the reasons stated above, the case of the petitioner for promotion to the post of Assistant Registrar as on 9-4-2021 is required to be considered afresh ignoring the uncommunicated ACRs for the years 2016-2017 and 2019-20 and her case is required to be considered afresh taking into consideration the ACRs for the years 2017-2018 and 2018-2019 for which the petitioner was having “Very Good” gradings.*

*23. In view of the above and for the reasons stated above, present petition is allowed. The DPC proceedings dated 9-4-2021 denying the promotion to the petitioner for the post of Assistant Registrar are hereby quashed and set aside. The case of the petitioner for promotion to the post of Assistant Registrar as on 9-4-2021 i.e. the*



*date on which the juniors came to be promoted is directed to be considered afresh ignoring the uncommunicated ACRs for the years 2016-2017 and 2019-20 and thereafter the DPC/competent authority to take a fresh decision in accordance with law and taking into consideration the ACRs of remaining years i.e. 2017-2018 and 2018-2019. Such an exercise be completed within a period of six weeks from today.”*

26. In **R.K. Jibanlata Devi** (supra), the petitioner had secured ‘Good’ grading for the years 2016-17 and 2019-20, whereas ‘Very Good’ grading for the years 2017-18 and 2018-19 in her ACRs. The ACR grading for the year 2016-17 was not communicated to the petitioner till the Departmental Promotion Committee (“DPC”) had met, whereas the grading for the year 2019-20 was communicated to the petitioner just one day before the DPC met on 09.04.2021. The Hon’ble Supreme Court held that the adverse and uncommunicated grading of ‘Good’ for the years 2016-17 and 2019-20 cannot be relied upon for consideration of promotion and the same is to be ignored. It was further directed that the DPC/competent authority shall take a fresh decision in accordance with law, ignoring the ACRs for the years 2016-17 and 2019-20.

27. In view of the Hon’ble Supreme Court’s position in **Rukhsana Shaheen Khan** (supra) and **R.K. Jibanlata Devi** (supra), it emerges that adverse and uncommunicated ACRs cannot be considered for the purposes of promotion, and the same is to be ignored by the competent authority.

28. In the present case, *vis-à-vis* the promotion exercise 2014-2015, the Appellant was to be considered for the promotion to the post of Manager (Scale IV) from Deputy Manager (Scale III). The APARs for the years



2011-12, 2012-13 and 2013-14 were considered in the said promotion exercise and the Appellant was awarded 'B' Grade for the year 2011-12, and 'A' grade for the years 2012-13 and 2013-14.

29. There is no cavil that entries in the APARs for the said years were not communicated to the Appellant before 19.08.2019, and the same were only communicated to the Appellant pursuant to the directions of the Hon'ble Supreme Court issued *vide* judgment dated 10.07.2019 passed in Civil Appeal Nos. 5340-5341/2019.

30. Further, it is imperative to note that in the said judgment dated 10.07.2019, it was also observed by the Hon'ble Supreme Court that the lower grade awarded to the Appellant in the year 2011-12, has a material effect on the issue of promotion of the Appellant. The relevant portion is extracted hereunder:

*"13. Admittedly, for one of the years under consideration (2011-12) for the promotional exercise for 2014-15, the appellant was graded a "B", while for the subsequent two years, he was graded an "A". Consequently, the fact that the appellant was given a lower grading for 2011-12 would materially affect whether or not he should be prompted from Scale III to Scale IV for the year in question. The non-communication of the entries is, therefore, a matter in respect of which a legitimate grievance can be made by the appellant, particularly having regard to the position in law laid down in Dev Dutt (supra) and Sukhdev Singh (supra)."*

31. Therefore, it is clear that the 'B' grade awarded to the Appellant in his APAR for the year 2011-12, which was evidently adverse in nature given that the Appellant was awarded 'A' grade for the subsequent two years, was



considered for the promotion exercise of 2014-15 despite its entries being uncommunicated to the Appellant when the said exercise took place.

32. Accordingly, in view of the settled position of law as enunciated in ***Rukhsana Shaheen Khan*** (supra) and ***R.K. Jibanlata Devi*** (supra), and having regard to the facts and circumstances of the present case, we are of the considered opinion that the Appellant's case for promotion from Scale III to Scale IV in the promotion exercise of 2014-15 warrants fresh consideration by the competent authority. Such consideration shall be undertaken by taking into account the Appellant's APARs for the years 2012-13 and 2013-14, while excluding from consideration the adverse APAR for the year 2011-12, the entries whereof had remained uncommunicated at the time when the said promotion exercise was conducted.

33. In view of the foregoing, the present Appeal is allowed and the Impugned Judgment passed by the learned Single Judge is hereby set aside. Consequently, the order dated 21.09.2020 passed by Respondent No. 1, whereby the Appellant was denied promotion in the promotion exercise of 2014-15, is also quashed and set aside. Respondent No. 1 is directed to reconsider the Appellant's case for promotion from Scale III to Scale IV in the promotion exercise of 2014-15 by excluding the APAR for the year 2011-12 from consideration and by taking into account the APARs for the years 2012-13 and 2013-14.

34. Since the Appellant was ultimately promoted in the year 2018, in the event he is found entitled to promotion pursuant to the fresh exercise directed hereinabove, he shall be entitled to all consequential benefits on a



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retrospective basis, including arrears, with effect from the date on which promotion would have accrued in the promotion exercise of 2014-15, i.e., 29.05.2014, instead of the year 2018.

35. The present Appeal stands disposed of in the aforesaid terms. Pending application(s), if any, shall also stand disposed of.

**TEJAS KARIA, J**

**DEVENDRA KUMAR UPADHYAYA, CJ**

**MAY 29, 2026**

*St / ap*