

(2011) 03 UK CK 0113

In the Uttarakhand High Court

Case No : Writ Petition (SB) No. 128 of 2010

Dr. (Miss) Harshwanti Bisht

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 16-03-2011

Acts Referred:

Citation : (2011) 03 UK CK 0113

Hon'ble Judges : Barin Ghosh, C.J;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—Performance of the Petitioner during certain period of time was the basis of adjudging whether the Petitioner has achieved the minimum basic cut-off achievement for being considered for promotion. Such achievement was to be ascertained on the basis of final gradation given to the Petitioner in his Annual Confidential Reports during the relevant period. Petitioner obtained final gradation remark of "Good" in two of her such Annual Confidential Reports. Because the Petitioner got those two "Good" final gradations in her Confidential Report for the said two years, she could not reach the bench-mark of achievement, which would have entailed a promotion to the Petitioner. It is the contention of the Petitioner that those two gradations of "Good" had not been communicated to her. The Respondents are accepting that the same were not communicated. The Respondents are also contending that in terms of the law made by the State, the same were not required to be communicated. Fact remains that because of receiving the said two gradation marks, the Petitioner has lost a career advancement opportunity, and as a result her civil rights have been affected. If by reason of any action on the part of anyone civil right of a Government servant is affected, law requires the Government employee to be at least informed in that regard. If the Petitioner had been informed about receiving of such grade marks, she could represent against the same and it is possible that upon accepting her representation, her grade marks could be improved. Because of non-communication of those grade-marks to the Petitioner, she has lost her such opportunity of making representation and getting the benefit of the result of

such representation. In the circumstances, we allow the writ petition by directing Respondent No. 1 to communicate to the Petitioner the final gradation of the Petitioner that she received in her Confidential Reports for the years 2004-05 and 2006-07 within a period of fifteen days from the date of service of a copy of this order upon Respondent No. 1. Within fifteen days there from, it shall be open to the Petitioner to make a representation against the same. In the event, such representation is made within the time, as mentioned above, let the same be decided and communicated to the Petitioner within a period of one month from the date of such representation. In the event, on the basis of such representation, the final gradation of the Petitioner during those years or during any of those years improves, it shall be obligatory on the part of the Respondents to constitute a fresh Departmental Promotion Committee and to have the case of promotion of the Petitioner to be decided through the said Committee with effect from the date the previous Departmental Promotion Committee which found the Petitioner unfit for promotion. In the event, constitution of such a Departmental Promotion Committee is called for, let the same be constituted within a period of one month from the date of decision on the representation of the Petitioner.

2. The writ petition is accordingly disposed of.