

(2010) 02 AHC CK 0308
In the Allahabad High Court
Case No : Writ Petition No. 150 (S/B) of 2010

State of U.P. and Another

APPELLANT

Vs

Atma Nand Dubey and Another

RESPONDENT

Date of Decision : 17-02-2010

Acts Referred:

Citation : (2010) 02 AHC CK 0308

Hon'ble Judges : Uma Nath Singh, J; D.K. Arora, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Heard learned Counsel for parties and perused the impugned order of Tribunal and other materials available on record.
2. Learned Counsel for petitioner-State submitted that the Reporting Authority assessed ACRs of respondent for the year 1999-2000 as "very good" whereas the Reviewing and Accepting Authorities down-graded the same and rated him as "good". The U.P. Public Services Tribunal has directed deletion of the down grading of entry and has upheld the entry recorded by the Reporting Authority with a direction that the same shall be considered for the purpose of further promotions. Learned Counsel submitted that the Tribunal has exceeded its jurisdiction by substituting itself in the place of Reviewing and Accepting Authorities. Learned Counsel also submitted that since the controversy related to the entry for the year 1999 - 2000, the claim petition was inordinately time barred but even then the Tribunal entertained it and passed the impugned order.
3. On the other hand, learned Counsel for caveator-respondent submitted that the claim petition was filed well within the limitation period for the reason that he came to know about the down-grading of entry on furnishing of information only in reply to an application filed under the Right to Information Act.
4. On a careful consideration of rival submission, we are of the opinion that since the down-grading of entry has not resulted in recording of adverse entry,

therefore, it was not necessary for the department to inform the respondent about the down grading unless the rules so permit. Thus, without going into the controversy, we confine our order limited to the fact that the Tribunal should not have substituted itself for Reviewing and Accepting Authorities, and after deletion of down-grading of entry, should have remitted the matter to Reviewing and Accepting Authorities for a fresh assessment after giving an opportunity to the petitioner. Thus, to the extent the Tribunal has directed that the grading given by the Reporting Authority shall be treated to be final for the purpose of taking it into consideration at the time of further promotion, the impugned order needs to be modified. Thus, the impugned order in regard to giving such direction is set-aside and the matter is remitted to the Reviewing and Accepting Authorities to reassess the work and conduct of the respondent for the years 1999 and 2000 after giving him opportunity in case, it is proposed to disagree with the entry recorded by the Reporting Authority.

5. The writ petition is, thus, disposed of.