

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Dr. Subesh Kumar Das

Case No – **OA 526 OF 2019**

Indrajit Paul vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
02 14.08.2019	<p>For the Applicant : Mr. Indrajit Paul, In person.</p> <p>For the Respondent : Mr. Sankha Ghosh, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for declaring grading of the applicant in ACR of 2016-17 as "Very Good", instead of "Good" as communicated by SAPIO, WBCS Cell, Department of Personnel &amp; Administrative Reforms and e-Governance, Government of West Bengal on July 16, 2018.</p> <p>The applicant joined in the service as an officer of West Bengal Civil Service (Executive) [in short, WBCS] in 1992. He was working as Deputy Secretary to the Government of West Bengal, Department of Civil Defence during the year 2016-17. The Principal Secretary to the Government of West Bengal, Department of Civil Defence was the Reporting Officer and Reviewing Officer of the applicant during the period 2016-17, while the Hon'ble Minister-in-Charge of Department of Disaster Management and Civil Defence was the Accepting Authority of ACR during the period 2016-17. The performance of the applicant was evaluated by the Reporting Officer on the basis of eleven parameters as laid down in the ACR Booklet and he was graded "Very Good" by the Reporting Officer for the year 2016-17. In the absence of any Joint Secretary or any officer above</p>	

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the rank of the applicant in the Department, the Principal Secretary to the Government of West Bengal, Department of Civil Defence acted as Reviewing Authority and accepted the grading of the applicant as "Very Good" for the year 2016-17. However, the Accepting Authority recorded his remarks in Part-V of the ACR Booklet as "Good Officer" for the said period of 2016-17 without assigning any reason for downgrading the overall assessment of the applicant from "Very Good" to "Good". The applicant collected information through RTI Act, 2005 about overall grading of his ACR for the year 2016-17 as "Good", as communicated by the Department of Personnel & Administrative Reforms and e-Governance, Government of West Bengal on September 5, 2018. The grievance of the applicant is that his overall assessment of performance for the year 2016-17 was downgraded from "Very Good" to "Good" without assigning any reason.

The applicant appears in person and submits that his overall grading of ACR given by the Reporting authority and accepted by the Reviewing authority cannot be downgraded from "Very Good" to "Good" by the Accepting Authority without assigning any reason. By referring to unreported judgment of "State of Uttar Pradesh v. Narendra Nath Sinha" [Appeal (Civil) 6007 of 2001 decided on August 30, 2001], the applicant submits that the Hon'ble Supreme Court discarded the act of downgrading the overall assessment in the ACR of one Chief Engineer of the State of Uttar Pradesh by the Reviewing and

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Accepting Authority without assigning any reason. According to the applicant, he should have been graded as "Very Good" for his performance during the period 2016-17. He also submits that downgrading of overall assessment of the applicant for the year 2016-17 has caused prejudice to the applicant as his juniors have already got scale no. 21 by way of supersession of the applicant due to downgrading of ACR of the applicant from "Very Good" to "Good" during the period 2016-17.

Mr. Sankha Ghosh, Learned Counsel representing the state respondents, submits that the state respondents should be given an opportunity to file reply for disclosing the reasons for downgrading ACR of the applicant from "Very Good" to "Good" by the Accepting Authority during the period 2016-17. We are unable to accept this submission of Mr. Ghosh as there is no scope of assigning any reason by the Accepting Authority at this stage for downgrading ACR of an officer in 2016-17 which has attained finality.

Having heard the applicant in person and Learned Counsel for the state respondents and on consideration of the materials on record, we find that the performance of the applicant for the year 2016-2017 was evaluated by the Reporting Officer on the basis of eleven parameters. The applicant was found to be "very good" with regard to eight parameters, outstanding with regard to one parameter and good with regard to two parameters. As a result, the overall performance of the

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applicant was assessed as "Very Good" both by the Reporting Officer/Reviewing Officer. We are unable to comprehend how the Accepting Officer recorded the remarks "Good Officer" in Part-V of the ACR Booklet. No reasons are assigned by the Accepting Officer for downgrading the assessment of performance of the applicant from "Very Good" to "Good" during the period 2016-17. The Accepting Officer has had the discretion either to accept the grading given by the Reporting Officer/Reviewing Officer or to upgrade or downgrade the overall assessment by assigning reasons. If the Accepting Officer accepts the grading given by the Reporting Officer/Reviewing Officer, there is no need to assign any reason. However, if the Accepting Officer upgrades the overall assessment of the officer or downgrades the overall assessment of the officer, the recording of reasons for doing so is mandatory. In "State of Uttar Pradesh v. Narendra Nath Sinha" (Supra), the Hon'ble Supreme Court directed the Principal Secretary to the Government of Uttar Pradesh, Public Works Department to consider the matter of fresh recording of assessment in the ACR mainly on the ground that overall assessment of the Reporting Officer was downgraded by the Reviewing Officer and Accepting Officer without assigning any reason. In the absence of assigning any reason for downgrading overall assessment of performance the applicant from "Very Good" to "Good", we would like to hold that the Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms and e-

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Governance should consider the overall assessment of the applicant as "Very Good" as recorded by the Reporting Officer/Reviewing Officer for the year 2016-17.

The applicant submitted one representation before the respondent no. 1 on April 24, 2019, but the said representation has not yet been considered by the said respondent.

In view of our above findings, we would like to direct the respondent no. 1 to consider the representation of the applicant in the light of the observations made by us in this order. Accordingly, the respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Personnel & Administrative Reforms and e-Governance is directed to consider the representation submitted by the applicant on April 24, 2019 (Annexure-P3 to the original application) in the light of the observation made by us by passing a reasoned order within a period of 12 (twelve) weeks from the date of communication of the order and communicate the said reasoned order to the applicant within a period of 4 (four) weeks thereafter.

With the above direction, the original application stands **disposed of.**

Let a plain copy of this order be supplied to both parties.

Sanjib

( S.K. DAS )  
MEMBER(A)

( R. K. BAG )  
MEMBER (J)

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