

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7099 OF 2011
[ARISING OUT OF S.L.P. (C) NO. 33234 OF 2009]

UNION PUBLIC SERVICE
COMMISSION & ANR.

.....

APPELLANTS

VERSUS

NASEER UD.DIN. WANI & ORS.

.....

RESPONDENTS

O R D E R

1. Leave granted.
2. We have heard the learned counsel for the parties.
3. We are not inclined to go into the larger issues raised by Mr. Ranjit Kumar, the learned Senior Counsel for the appellants with regard to the correctness or otherwise of the orders of the Tribunal or of the High court in the light of the limited relief that we feel should be granted to the appellants. The two issues raised by the appellants are that the orders of the Tribunal and *ipso facto* the order of the High Court went far beyond the scope of justified judicial interference inasmuch that a re-assessment of the merit of respondent No. 1. vis-à-vis the other candidates had not been made

by a competent authority and a direction had straight-away been made giving him appointment to the IPS Cadre with effect from 1996 whereas the appellant UPSC had made his allotment from the year 1997. We notice from the Original Application filed by the respondent before the tribunal that the primary prayer made by him was that the State Government should re-write his Appraisal Reports for the year 1998-99 by reviewing the decision of the accepting Authority and to make the gradation on the basis of the remarks written by the initiating officer and on that basis re-consider his year of allotment to the IPS Cadre. It will be seen, therefore, that the corner stone of the respondent's case was his APRs should be rewritten and upgraded so as to make him eligible for allotment from the year 1996 as the Reviewing Authority had downgraded his ACR for the year 1998-99 from "very good" to "good but slow". As already indicated, the Tribunal and the High Court have gone far beyond the prayer and directed that he be given allotment from the year 1996 which to our mind should have happened only after the State Government had reviewed the APRs and awarded a higher gradation for the year 1998-99.

4. We, therefore, feel that it would be appropriate, in the circumstances, that the matter should be referred to the State Government so as to enable it to make a re-

assessment of the respondent's grading. We, accordingly, request the State Government to take a decision thereof within two months from the date a certified copy of the order is supplied to the Chief Secretary to the State Government. In case, the re-appraisal results in an upgradation of the respondent's APR, the appellant UPSC would once again (and in that eventuality alone) put the matter before the Selection Committee which would take a decision within four months thereafter as the respondent is left with only about 1½ years of service.

5. In view of the above, we set aside the orders of the Tribunal and the High Court. Disposed of.

.....J
[HARJIT SINGH BEDI]

.....J
[GYAN SUDHA MISRA]

NEW DELHI
AUGUST 11, 2011.