

ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI

9

OA 13 of 2023

Nb Ris Hemanta Kumar Das

..... Applicant

By legal practitioner for Applicant.

A R Tahbildar

**-Versus-**

UOI & Others.

..... Respondents

By legal practitioner for Respondents.

P.J.Barman

**CORAM:**

HON'BLE MR. JUSTICE SUDHIR MITTAL, MEMBER (J)

HON'BLE AIR MSHL BALAKRISHNAN SURESH, MEMBER (A)

**ORDER**

**Justice Sudhir Mittal, Member ( Judicial )**

The applicant is serving as Naib Risaldar. His grievance is on account of non promotion to the rank of Risaldar. .

2. It has been submitted that criteria prescribed for promotion to the rank of Risaldar stands fulfilled by the applicant and order of promotion dated 07.04.2022 has been passed, yet, he has not been promoted. Non Statutory Complaint dated 14.01.2023 has not been decided till date.

3. Notice.

4. Mr. P.J. Barman, Advocate accepts notice on behalf of the respondents and submits that an early Annual Confidential Report initiated in respect of the applicant

graded him as ' Average ' and thus, the applicant does not fulfil criteria prescribed. According to the said criteria, none of the ACR of the previous three years should be less than ' High Average '.

5. In response, learned counsel for the applicant relies upon judgment of the Hon'ble Supreme Court passed in U.P. Jal Nigam and others vs. Prabhat Chandra Jain and others, ( 1996 ) 2 Supreme Court Cases 363 to argue that even if there is reduction in grading, the same may amount to an adverse remark requiring communication of the confidential report alongwith the reasons therefor. The same having not been done, the respondents cannot deprive the applicant of his promotion..

6. Considering the fact that the non-statutory complaint was filed way back on 14.01.2023, we deem it appropriate to direct the respondents to decide the same within four weeks from today keeping in view the law laid down in U.P. Jal Nigam ( Supra ). Thereafter, the applicant shall have a right to represent against the decision, if required, within four weeks thereafter. This direction presupposes that the decision taken by the respondents shall be communicated to the applicant within one week thereof. If any representation is made, the same shall be decided expeditiously keeping in view the fact that the applicant is retiring on 31.12.2023. The applicant shall also have liberty to approach this Tribunal afresh, if circumstances of the case so require. ..

The OA stands disposed of

**(Air Mshl Balakrishnan Suresh)**

**MEMBER (A)**

**9<sup>th</sup> October, 2023.**

**AKS**

**(Justice Sudhir Mittal)**

**MEMBER (J)**