



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No(s). 8790-8791 OF 2026

(Arising out of SLP (C) No(s). 10821-10822/2024)

**THE DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC
AND INDUSTRIAL RESEARCH & ORS.**

...APPELLANTS(S)

VERSUS

ANIL EARNEST

...RESPONDENT(S)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.

Facts

2. The respondent (i.e., the Original Applicant) filed an Original Application (for short, O.A.) No. 170/00727/2017 before Central Administrative Tribunal, Bengaluru Bench, Bengaluru¹ for quashing: (a) the

¹ CAT

recommendation of the Assessment Committee dated 14.09.2016 and (b) Office Memorandum (for short, O.M.) No. 4 PI/05(02)/2017 dated 16.11.2017; with a further prayer to direct the respondents therein (i.e., the appellants herein) to consider the promotion of the respondent to the post of Senior Scientist with effect from 19.09.2012 along with all consequential benefits including arrears of pay in accordance with Rule 7.4.1² of CSIR Scientists Recruitment & Promotion Rules, 2001³.

3. According to the respondent, he was eligible for being promoted to the post of Senior Scientist on 19.09.2012, but he was promoted to the said post only with effect from 19.09.2015 *vide* recommendation of the Assessment Committee dated 30.10.2018. According to him, consideration for promotion to the post of Senior Scientist is based on gradings in the Annual Performance

² 7.4.1 Notwithstanding anything contained in these rules, a relaxation of one year in the minimum residency period can be granted to a Scientist Group IV (2), (3) & (4) provided that he consistently secures 90% and above marks in the Annual Confidential Reports (introduced under Rule 8.1) in three successive years in the grade. This provision shall be applicable maximum twice in the career of a Scientist.

³ 2001 Rules

Reports⁴/ Performance Mapping of Scientists⁵ earned during the requisite residency period subject to achieving the performance threshold score of 85%. These along with the 'Work Report' are then considered and assessed by the Recruitment and Assessment Board⁶. It is the case of the respondent that he completed requisite 4 years of residency service on 19.09.2013, and in the last four years up to 19.09.2013, he had secured the following grades/PMS:

Assessment Year	Marks	Grading
2009-10	90.5	Outstanding
2010-11	95.0	Outstanding
2011-12	94.0	Outstanding
2012-13	89.0	Excellent

The average of those grades works-out to 92.1% and thereby qualifies the respondent for assessment by the Assessment Committee constituted by the Board for promotion. However, the Assessment Committee, which met on 14.09.2016, did not recommend the respondent for promotion. Therefore, the respondent made a

⁴ APRs

⁵ PMS at some places it is referred to as 'Performance Mapping Scheme'

⁶ The Board

representation which came to be rejected by the impugned order / O.M. dated 06.11.2017. In the order dated 06.11.2017 it was mentioned that the Assessment Committee after appraising the 'Work Report' awarded 82% which was below the threshold of 85%. The case of the respondent, who was the original applicant before CAT, is that the Assessment Committee ought to have considered APRs/PMS and awarded the average of 92.1% (i.e., PMS score) and 82% (i.e., 'Work Report' score), which would have been higher than the threshold of 85%. Hence, the respondent is entitled for promotion from the date he became eligible.

4. In response, the appellants, who were respondents in the O.A., pleaded that consideration for promotion from one grade to the next higher grade is in two stages. The first stage is of screening the candidates by the Internal Screening Committee, constituted in terms of Rule 7.5.2 of the 2001 Rules, based on their eligibility for assessment for promotion. At this stage, the marks obtained by the candidates in their yearly APRs/PMS, during their

residency period in a grade, are calculated and averaged out. Thereafter, their eligibility is ascertained with reference to the threshold marks in terms of Rule 7.4⁷ of the 2001 Rules. If the average marks obtained in APRs/PMS, during the relevant residency period, is equal to or more than the threshold specified in Rule 7.4, the candidate is recommended by the Internal Screening Committee for the next stage, that is, assessment by the Assessment Committee constituted by the Board. In the second stage, the Assessment Committee, constituted in terms of Rule 7.6.1⁸ and 7.6.2^{8A} of the 2001 Rules, further

⁷ 7.4 All Scientists will be first screened for eligibility on the basis of gradings in the Annual Confidential Reports (ACRs) and only those Scientists who satisfy the minimum residency period linked to their performance threshold scores as indicated in the Table below shall be considered for further assessment.

Number of years in the grade						
	3	4	5	6	7	8
Minimum averaged percentage of ACR scores for eligibility						
Scientist Group IV (1) to Scientist IV (2)	85%	80%	70%	65%	60%	
Scientist Group IV (2) to Scientist IV (3)		85%	80%	75%	70%	60%
Scientist Group IV (3) to Scientist IV (4)		85%	80%	75%	70%	60%
Scientist Group IV (4) to Scientist IV (5)			85%	80%	75%	70%
Scientist Group IV (5) to Scientist IV (6)			85%	80%	75%	70%

⁸ 7.6.1. The Board shall constitute Assessment Committee to assess the work of the candidates whose name have been forwarded by the Director/ DG CSIR, as the case may be, for the promotion to the next higher grade.

^{8A} 7.6.2 Assessment Committee up to the level of Scientist Group IV (5) shall be as under:

(i) The Assessment Committee shall be chaired by the Chairperson of the Board. However, the Chairperson of the Board can nominate one of the persons from the panel of Co-Chairpersons prepared by the Chairperson of the Board and approved by the VP, CSIR to act as Chairperson of the Assessment Committees in his place.

assesses all eligible candidates recommended by the Internal Screening Committee on the basis of interview and/ or 'Work Report' of the candidates containing the details of work done by them during the residency period. Based on such further assessment, the Assessment Committee awards marks to the candidates. If marks so obtained by a candidate are equal to or more than the threshold marks as provided in Rule 7.6.5⁹ of the 2001 Rules, as amended vide CSIR Letter No. 7-14(2)/2006-R&A dated 12.03.2007, the Assessment Committee recommends the candidate(s) as 'fit for promotion', and if the allotted marks are below the threshold marks, then the candidate is marked as 'not fit for promotion'. It is pleaded that the Assessment Committee has discretion to devise its own criteria to determine the suitability and merits of the candidates considered by it for promotion. In respect of the

(ii)	Two Departmental Core Members	-	At an appropriate level to be nominated by the DG, CSIR
(iii)	Two External Experts	-	To be nominated by the Chairperson of the Board from the panel approved by the RC of the Lab.
(iv)	Director of the concerned CSIR Lab/Instt./Head of the Division at Hqrs. or his nominee.		

⁹ 7.6.5 The Assessment Committee shall submit its recommendations as 'Fit for Promotion' or 'Not yet Fit for Promotion'.

candidature of the respondent, it was stated that the Assessment Committee had awarded 82% marks as against the threshold of 85% required for promotion to the next higher grade. Based on the above, the appellants prayed that the O.A. be dismissed.

5. The CAT, however, allowed the O.A. *vide* order dated 19.03.2019. While allowing the O.A., CAT proceeded on the premise that it is the admitted case of both sides that in the PMS, the respondent (i.e., Original Applicant) had secured about 92% marks for the last 03 years, and in the Work Report he was provided 82% by the Assessment Committee, and therefore, the average of the two, i.e., $92+82$ would be higher than the threshold of 85%. Hence, according to CAT, the respondent was eligible for promotion. Accordingly, it ordered thus:

“Therefore, applicant is eligible for promotion from 2012 onwards on the specific date available for it. It is hereby declared. A mandate is issued to do so within the next two months. OA is allowed. No order as to costs.”

6. Aggrieved by the order of CAT, the appellants filed a writ petition i.e., W.P. No. 30846/2019 (S-CAT), *inter*

alia, contending that CAT had misconstrued paragraph 3(b) of the Circular dated 01.06.2011 to conclude that marks based on appraisal of APR/PMS would have to be added to the marks awarded by the Assessment Committee on the Work Report to obtain an average thereof and based on that average, the suitability/ fitness for promotion is to be determined. According to the appellants, paragraph 3(b) did not prescribe averaging of marks, as suggested, to determine suitability/ fitness for promotion, rather it prescribed consideration of APR/PMS and Work Report of the period of residency. Based on such assessment, the Assessment Committee had to award marks of its own and if those marks are equal to or higher than the threshold, a candidate is considered 'fit for promotion'. It was argued that since the Assessment Committee, based on such assessment, found the respondent to be below the threshold, it did not consider the respondent 'fit for promotion' in the relevant year, though, later, the respondent was promoted.

7. Although the High Court¹⁰, did not find any fault in the reasons assigned by CAT for its interpretation of the amendment brought by paragraph 3 (b) of the Circular dated 01.06.2011, *vide* impugned order dated 10.02.2021, it modified the direction issued by CAT, to direct as under:

“This Court does not find any fault with the reasoning assigned by the Tribunal. However, the Tribunal should have remanded back the matter after recording the finding to the employer to hold a review Departmental Promotion Committee. The Tribunal could not have issued a mandamus for promoting the employee. Resultantly, for holding a review Departmental Promotion Committee, the matter is remanded back to the employer and to pass an appropriate order in accordance with law. The petitioners are directed to hold a review Departmental Promotion Committee within 90 days and from the date of receipt of the certified copy of this order.

It is needless to mention that after holding a review Departmental Promotion Committee, the petitioner shall pass an appropriate consequential order in accordance with law.”

8. Aggrieved therewith, a Review Petition i.e. No.354 of 2022 was preferred, which was dismissed summarily by the High Court *vide* second impugned order dated 03.11.2023.

¹⁰ The High Court of Karnataka at Bengaluru

Submissions on behalf of appellants

9. Assailing the order(s) of the High Court as well as of CAT, on behalf of the appellants, it was submitted that the High Court failed to properly construe paragraph 3(b) of the Circular dated 01.06.2011 which was applicable on the date when the promotion of the respondent was considered. It was argued that the 2001 Rules provided for a two-tier system of assessment for promotion. In the first stage, candidates are shortlisted/ screened by the Internal Screening Committee constituted under Rule 7.5 of the 2001 Rules. After such screening, the Director/DG, CSIR forwards the names of the candidates to the Board. Rule 7.6.1 of the 2001 Rules provides for constitution of an Assessment Committee by the Board to assess the work of the candidates whose names are forwarded by the Director/DG, CSIR for their promotion to the next higher grade. The Assessment Committee, thereafter, assesses the recommended candidates on their Work Report of the period concerned and submit its recommendations as 'fit for promotion' or 'not yet fit for promotion'. Under the

amended provision, which became applicable from Assessment Year 2010-11, the assessment had to be based on APR/PMS and Work Report of the period concerned, and the result is declared as either 'fit for promotion' or 'not yet fit for promotion' or 'promotion deferred by one year'.

10. It is submitted on behalf of the appellants that the case of the respondent was considered for the relevant period. However, on overall assessment, the Assessment Committee graded him at 82% which is below the threshold of 85%. Therefore, he was considered 'not fit for promotion'. It was argued that both CAT and the High Court have erred in construing Para 3(b) of CSIR Letter No. 1-5(1)/174(As Pr)/2009-RAB, dated 01.06.2011, as one mandating averaging of the scores /marks awarded on PMS and the 'Work Report'.

Submissions on behalf of the respondent

11. *Per contra*, on behalf of the respondent, it was submitted that Para 3(b) of CSIR Letter dated 01.06.2011, which amended the 2001 Rules, states as follows:

“For other levels, within a pay-band, the assessment will be based on the Annual Performance/PMS and Work Report for the period of assessment.”

Use of word “and” suggests that there would have to be consideration of APR/PMS along with the ‘Work Report’. Therefore, in absence of any guidelines as to what weightage is to be accorded to the marks awarded for APR/PMS and the ‘Work Report’ in the final assessment score, CAT had requested the learned counsel for the respondent therein (i.e., ‘the appellants’ herein) to elucidate the position. Despite the request of CAT, no guidelines were shown, therefore, CAT concluded that post assessment, recommendation would depend on the mean of marks of APR/PMS and the ‘Work Report’. It is submitted that the view taken by CAT, as affirmed by the High Court, is a just and proper interpretation of the amended 2001 Rules, and it does not call for interference.

12. It was also argued that if the interpretation as accorded by CAT and the High Court is not affirmed, it would confer unbridled and unguided power on the Assessment Committee which would render the provision

vulnerable being violative of the rule against arbitrariness enshrined in Article 14 of the Constitution of India. Accordingly, the respondent's counsel prayed that the appeal(s) be dismissed.

Discussion/ Analysis

13. We have considered the rival submissions and have perused the records.

14. Before we address the submissions, it would be apposite to notice the reasons assigned by the Department (i.e., the appellants) in its order/O.M. dated 06.11.2017, whereby the representation of the respondent was rejected. Reasons recorded therein are reproduced herein below:

“1. The assessment of scientist is based on the work report submitted by the Scientists of CSIR and the relevant PMS of the candidates. Scientists are assessed by a duly constituted Assessment Committee as per Rule 7.6.1 of CSRAP Rules, 2001. The Assessment Committee is a high-profile Committee consisting of experts in the broad area of the scientists concerned. Further, as per CSRAP Rules, the Assessment Committee, inter alia, consists of Director of the concerned Lab/ Instt. or his nominee as one of the members, who takes care of interest of the scientist concerned. The Assessment Committee has discretion to devise its own method and procedure for objective assessment of suitability and merit of the candidate being considered by it. The assessment promotion for

next high grade is based on information input furnished by the Scientists concerned in the 'Work Report' submitted by the scientist which is duly certified by the Director. Each scientist is assessed by giving due consideration to the 'Work Report' submitted by him / her and therefore, comparison of points with another scientist on any factor does not arise. The recommendations of Assessment Committee are endorsed by the Chairman, RAB and thereafter the appointing authority of 'Jr. Scientist' to 'Principal Scientist', viz., their respective Directors considers and approves it.

2. Doctor Anil Earnest, Scientist, CSIR-4 PI was considered in the Core Area "Engineering Science and Technology at NAL 1, Bangalore for his assessment promotion from 'Scientist' to 'Sr. Scientist' on 14.09.2016 for his residency period from 19.09.2009 to 19.09.2013.

3. The Assessment Committee after assessing the work report of Dr. Anil Earnest, Scientist CSIR 4- PI awarded him 82% as against the threshold mark of 85% (first chance). Since he could not get the threshold marks for promotion, the Assessment Committee recommended him as 'Not yet fit for promotion'.

4. It is further submitted that there is no provision in the CSRAP Rules 2001 for further review of assessment after it has been recommended by Assessment Committee and approved by the Competent Authority except for any procedural lapse.

5. In view of the above, the request dated 19.06.2017 of Dr. Anil Earnest, Scientist, CSIR, 4PI to relook (review) his assessment promotion cannot be acceded."

15. A bare reading of the reasons recorded in the aforesaid O.M. would indicate that assessment of the Assessment Committee is based on the 'Work Report' submitted by the scientists of the CSIR. It also records that

the Assessment Committee could devise its own method and procedure for objective assessment of suitability and merit of the candidate being considered by it.

16. The thrust of the submission on behalf of the respondent is that Para 3 (b) of the Circular dated 01.06.2011 requires consideration of both the relevant PMS and the “Work Report” and since on assessment of the “Work Report”, 82% marks have been awarded and PMS score exceeds 90%, the average of the two would exceed 85%, therefore the High Court as well as CAT were justified in passing the impugned order. *Per contra*, the submission on behalf of the appellant is that 82% marks have been awarded by the Assessment Committee on overall assessment after considering the “Work Report”, therefore, there is no need to average the marks to determine eligibility.

17. Upon noticing the rival contentions as also the relevant materials on record, we are of the view that the main issue which arises for our consideration is as to what would be the proper construction of the 2011 Rules post

amendment by Para 3 (b) of the Circular Letter dated 01.06.2011.

18. To address the aforesaid issue, it would be apposite to survey the relevant rules. Paragraph 7.3¹¹ of the 2001 Rules prescribe the minimum residency period required to be completed in a grade for being eligible to be considered for assessment for promotion to the next higher grade.

19. In the present case, the respondent seeks promotion from Scientist Grade to Senior Scientist Grade. The minimum residency period for such consideration, as provided in Paragraph 7.3, is 04 years.

¹¹ 7.3 The minimum residency period to be completed in a grade for consideration for assessment shall be as under:

Scales of pay	Designation	Minimum of Residency period linked to performance.
Rs. 8000-13500	Scientist Group IV(1)	3 years
Rs. 10000-15200	Scientist Group IV(2)	4 years
Rs. 12000-16500	Scientist Group IV(3)	4 years
Rs. 14300-18300	Scientist Group IV(4)	5 years
Rs. 16400-20000	Scientist Group IV(5)	5 years

7.3(a) The period spent on deputation/foreign service to a non-scientific post and the period of leave including leave on medical grounds, EOL, etc., availed on personal grounds shall not count towards the minimum residency period.

7.3(b) In case of permanent absorption of a Scientist on deputation in the same grade in Council Service from other Scientific Departments where Flexible Complementing Scheme is applicable, the entire service of that Scientist in the same grade including in the parent department shall be counted towards residency period. If an officer comes on deputation on a higher grade into the service and later permanently absorbed in the same grade in the service, the period spent on deputation shall be counted for residency period for consideration for promotion to the next higher grade.

20. Paragraph 7.4¹² provides that all Scientists would first be screened for eligibility on the basis of gradings in the APRs, and those who complete the minimum residency period and obtain the performance threshold scores as indicated in the table (refer to foot note 7) shall be considered for further assessment. In the table concerned, the minimum average percentage of APRs score required to gain eligibility, in the category to which the respondent belongs, is 85%.

21. Para 7.4.1 provides that notwithstanding anything contained in the Rules, a relaxation of 01 year in the minimum residency period can be granted to a Scientist Group IV (2), (3) & (4) provided he consistently scores 90% and above marks in his APRs for 03 successive years in a grade.

22. It is the case of the respondent that since his APRs for 03 successive years were above 90%, he was eligible for relaxation of 01 year in the minimum residency period required for consideration for promotion. According to the

¹² See Footnote 7

respondent, he was eligible for promotion a year earlier than in normal circumstances. And, in any case, he was eligible for promotion w.e.f. 19.09.2013.

23. Para 7.5 of the 2001 Rules provides for an Internal Screening Committee. The Internal Screening Committee shortlists eligible candidates, basis their APRs, and recommends their names to the Board. Para 7.6 of the 2001 Rules provides for an Assessment Committee, which is to be constituted by the Board. The Assessment Committee considers the “Work Report” and based on such consideration assesses whether a candidate is ‘fit for promotion’ or ‘not yet fit for promotion’.

24. It is not in dispute that by virtue of Para 3(b) of the Circular Letter dated 01.06.2011, the Assessment Committee was required to assess a candidate based on his APR/PMS and the ‘Work Report’ of the period of assessment.

25. In the present case, the Assessment Committee had considered the ‘Work Report’ of the respondent, and upon assessment awarded 82% marks which are below the

threshold i.e., 85% marks required for recommendation for promotion.

26. The High Court and CAT were of the view that Para 3(b) of the Circular Letter dated 01.06.2011 requires the Assessment Committee to consider both, APR/PMS and the “Work Report”, therefore an average of APR/PMS and the ‘Work Report’ scores would determine suitability for promotion. We are afraid that such a view is not borne out from Para 3 (b) (supra). What Para 3(b) requires is a consideration of APRs/PMS and the ‘Work Report’ of the period concerned. As to what marks are to be awarded upon such consideration is not provided for in Para 3 (b), and therefore, it falls within the domain of the Assessment Committee which comprises of domain experts.

27. The view taken by CAT and the High Court that the Assessment Committee would have to award average / mean of the marks of APRs/PMS and the ‘Work Report’ to determine whether the candidate is above or below the threshold, in our view, amounts to adding words to a provision. It is settled position in law that normally while

construing a provision of a statute, it is not permissible to read words which are not there in the provision. Few exceptions to this rule are there; such as, where those words by necessary implication appear to have been accidentally omitted, or where, without those words, certain existing words are deprived of all meaning¹³. Words may also be read to give effect to the intention of the Legislature which is apparent from the Act read as a whole¹⁴.

28. Besides, we do not agree with the argument of the learned counsel for the respondent that if averaging of marks of APRs/ PMS and the 'Work Report' for the concerned period is not undertaken, the Rule would suffer from the vice of being arbitrary. In our view, paragraph 3(b) of Circular dated 01.06.2011 provides sufficient guidance to the Assessment Committee by requiring it to consider APR/ PMS and the 'Work Report' for determining whether a candidate is suitable for promotion or not.

¹³ Craies Statute Law, 7th Ed. P.109, approved in *Surjit Singh Kalra v. Union of India*, (1991) 2 SCC 87

¹⁴ *Hameedia Hardware Stores v. B. Mohan Lal Sowcar*, (1988) 2 SCC 513

29. As far as consideration of APRs/PMS is concerned, that is built-in in the two-stage process of appraisal inasmuch as the Internal Screening Committee shortlists candidates based on their APRs/ PMS for further consideration by the Assessment Committee which then considers the “Work Report”. Besides, in absence of rule to the contrary, consideration of APRs/PMS by the Assessment Committee does not mean that it would have to award marks on basis thereof. Notably, Para 3(b) is silent on how marks are to be awarded by the Assessment Committee. Therefore, how much weight, if at all required, is to be assigned to APRs/ PMS must be best left for the Assessment Committee, which comprises domain experts, to decide.

30. At this stage, we may observe that for a scientist the ‘Work Report’ is of utmost importance. As to what weight is to be attached to the “Work Report” may depend on the nature of the work undertaken. A scientist who is engaged in complex research may not be able to deliver the desired result as compared to one dealing in a less complex

subject. In such circumstances, the Assessment Committee, which comprises domain experts, as specified in Para 7.6.3¹⁵ of the 2001 Rules, must be left with requisite discretion to determine whether a particular scientist has performed well enough to be considered 'fit for promotion'.

31. In view of the discussion above and having regard to the nature of the post, in absence of specific statutory provision or instructions governing service conditions and, in particular, award of marks for APRs/PMS at the stage of assessment of suitability for promotion, in our view, suitability for promotion must be left to be determined by the domain experts and, in absence of rules, a degree of latitude would have to be provided to them in their

¹⁵ 7.6.3 The Assessment Committee for Scientist Group IV (5) and above shall be constituted discipline-wise as under:

(i) The Assessment Committee shall be chaired by the Chairperson of the Board. Only in exceptional cases when he is not able to attend, he can nominate one of the persons from the panel of Co-Chairpersons prepared by the Chairperson and approved by the VP, CSIR to act as Chairperson of the Assessment Committee in his place.

(ii)	Director-General, CSIR or his nominee	-	Member
(iii)	Two eminent External Experts to be nominated by the Chairperson of the Board from the panel of the specialists approved by the RC of the Labs.	-	Member
(iv)	A representative from the Govt./Industry/NGO/Consultancy Financial Orgn. nominated by the Chairperson of the Board.	-	Member
(v)	Director of the concerned CSIR Lab. (none in the case of Hqrs.)	-	Member

assessment of suitability of a particular candidate for promotion. In conclusion, the process of averaging of APRs/PMS marks and marks obtained on the 'Work Report', as has been adopted by CAT and affirmed by the High Court cannot be sustained. More so, when Para 3(b) of the Circular dated 01.06.2011 does not envisage such procedure.

32. At this stage, we may put on record that there are no allegations of mala fide against any member of the Assessment Committee. Moreover, later, the Assessment Committee found the respondent suitable for promotion. Besides above, there is no serious challenge to the *vires* of Para 3(b) of the Circular dated 01.06. 2011.

33. For all the reasons above, we are of the considered view that both CAT and the High Court misconstrued the 2001 Rules as amended *vide* Paragraph 3(b) of the Circular dated 01.06.2011 in holding that an average of APRs/PMS marks and the 'Work Report' for the relevant period would determine the suitability of a candidate for promotion.

34. Accordingly, the appeal(s) are allowed. The impugned judgment and order(s) of the High Court as well as of CAT are set aside. O.A. filed by the respondent shall stand dismissed.

35. Pending applications, if any, shall stand disposed of. No order as to costs.

.....**J.**
(Manoj Misra)

.....**J.**
(Manmohan)

New Delhi;
July 10, 2026