

# **SUPREME COURT OF INDIA**

Brij Nath Pandey

Vs.

State of U.P.

(M.Jagannadha Rao and Doraiswamy Rajuu Raju JJ.)

31.07.2000

## **ORDER**

M. Jagannadha Rao and Doraiswamy Raju, JJ.

1. Leave granted.

2. Heard Counsel on both sides. The appellant was denied promotion in the selection which took place in 1995 when, according to him, his junior was promoted. According to the appellant the adverse entries in his Annual Confidential Reports 1985-86 and 1986-87 could not have been taken into consideration in view of the fact that the appellant was subsequently allowed to cross the efficiency bar since 1.1.92 vide an order dated 20.5.92. In our view this contention of the appellant is correct and the adverse entries in 1985-86 and 1986-87 cannot come in the way of the appellant for further promotion once he was allowed to cross the efficiency bar on 20.5.92. So far as the adverse remarks of 1993-94 are concerned at the time of the selection in 1995 the said adverse remarks were there on record but they were subsequently deleted on 6.7.96. Therefore, the appellant is entitled for a fresh consideration for his promotion in 1995. The respondents are therefore directed to consider the case of the appellant afresh with reference to the selection of 1995 when his junior was promoted.

3. A point was raised by the respondent that the other candidates might be affected with this order and have not been impleaded. We are unable to agree. The appellant is not seeking any direction with reference to the seniority. The dispute is purely between the appellant and the respondent State. If the adverse remarks could not have been taken into consideration, he has made out a case for reconsideration of his case. While doing so it is not necessary to hear other persons who might be affected. The fresh consideration as directed above will be done within a period of three months from to day.

4. The appeal is allowed as above. There shall be no order as to costs.