



*Somanna Kalappa*  
*Principal Associate*

## COMMUNICATING OFFICER'S ANNUAL CONFIDENTIAL REPORTS ESSENTIAL

The Supreme Court (SC), in *R.S. Kadian* case,<sup>1</sup> held that failure to communicate Annual Confidential Reports (ACR) on time deprives opportunity to an officer to make representation or improve work performance. Consequently, denial of promotion on the ground of such ACRs is legally unsustainable.

### Brief Facts

- R.S. Kadian, served as a Commandant with the Border Security Force (BSF).
- Following a Summary Court of Inquiry (COI) and an Order of Displeasure, a show-cause notice was issued on him, leading to his retirement from service with pensionary benefits<sup>2</sup>.
- Kadian challenged these punitive actions before the High Court of Delhi (HC), which allowed his petitions, set aside the retirement order and directed that his consideration for promotion to the next higher post with all consequential benefits.
- The Union of India's (UOI) challenge to the HC's order was dismissed by the SC,<sup>3</sup> though with a clarification that the HC's judgment would not serve as a legal precedent.
- Despite SC's directions, Kadian did not receive effective relief regarding his claim for promotion to Deputy Inspector General (DIG) from the date his juniors were promoted for the vacancy year 2008-09. He initiated contempt proceedings before the HC.
- In response, BSF claimed he was found fit for DIG for the vacancy year 2016-2017 and was promoted from 2016, stating that no Departmental Promotion Committee (DPC) was held for previous three years.
- Kadian, however, contended he was entitled to promotion for the vacancy year 2008-09, when his juniors were promoted.
- The BSF attributed the denial of his earlier promotion to "below benchmark" in ACR's from the years 2002-03, 2006-07, and 2007-08.
- Crucially, these adverse ACRs were never conveyed to Kadian until the HC directed it *via* an interim order.<sup>4</sup>

### SC's Judgement & Reasoning

Allowing the appeal, the SC:

- Considered whether Kadian could be justifiably denied promotion from the due date (when his juniors were promoted) based on adverse ACRs that were never conveyed to him on time, thereby depriving him of the opportunity to make a representation or improve his performance.
- Found that Kadian had been dealt with unfairly, noting that he could not be expected to provide an effective explanation for adverse comments made over 20 years ago.<sup>5</sup>

---

<sup>1</sup> *R.S. Kadian v. Ajay Kumar Bhalla and Another*, 2025 SCC OnLine SC 984

<sup>2</sup> Order dated June 17, 2009

<sup>3</sup> On March 16, 2021

<sup>4</sup> On December 17, 2021

<sup>5</sup> Referring to the 2002-2003 report.

- Reiterated that the adverse reports not been communicated cannot be acted upon for the purpose of denying promotion to the rank of DIG. Hence, they were “*liable to be ignored.*”
- Set aside the HC order.<sup>6</sup>
- Directed, instead of holding the UOI and others in contempt, effective relief for Kadian, who had already retired on superannuation.
- Directed BSF to *inter alia* to reconsider, within three months, Kadian’s claim for promotion to the rank of DIG with effect from the date when his juniors were promoted.

\*\*\*

This *Counselence Connect* contains information in a nutshell on a recent change in law. This is not legal advice and must not be treated so. For any clarifications, please contact us at: [info@counselence.com](mailto:info@counselence.com). Past issues of *Counselence Connect* are available at the ‘Newsletters’ page of our website ([www.counselence.com](http://www.counselence.com)).

---

<sup>6</sup> dated July 4, 2022  
© 2024 Counselence