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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.156/2003 in OA No.3268/2002

New Delhi, this the 24th day of February, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Subhransu Sekhar Mahapatra

.. Applicants

(Shri Gautam Acharya, Advocate)

versus

Union of India & others

.. Respondents

(Shri Madhav Panickar, Advocate)

ORDER

Shri S.K. Naik

Applicant had earlier filed OA 3268/2002 seeking a direction from the Tribunal to promote him to the post of Joint Secretary with effect from the date the DPC met for the purpose during 1997. The Tribunal had then directed Respondent No.1 to depute an official with the ACR dossier for perusal as the learned counsel for the applicant had then contended that to the best of his knowledge, the record of the applicant would meet the benchmark prescribed namely 'very good'. No notice had then been issued to the respondents.

2. ACR dossier of the applicant had accordingly been produced on 30.1.2003. On perusal of the same for the relevant years it was found that the applicant did not meet the benchmark requirement of at least 'very good' for promotion to the post of Joint Secretary. The OA accordingly was dismissed. Applicant thereafter filed CW 2107/2003 in the High Court of Delhi which was withdrawn by him to approach this Tribunal once again with an appropriate application and with liberty.

True

3. He has now filed the Review Application in which the main ground advanced is that the respondents had produced before the Tribunal the set of CRs recorded by them but had concealed the fact of the CRs being written by the Consul General of the Ministry of External Affairs, under whom he was working directly on deputation abroad and with whom he was in constant interaction at regular intervals.

4. Respondents in their reply have contested the RA. They have stated that the applicant was not on deputation with the MEA. According to them he was sent abroad against RAW's own sanctioned post and therefore the instructions on writing of the CRs applicable to deputationists do not apply to him. On the role of MEA in the scheme of things, the learned counsel for the respondents has stated that even though RAW officers, on special assignment, are not on deputation to MEA, the administrative formalities including writing of ACRs are being done by the MEA. This however is being done to protect the identity of the officer, he contends.

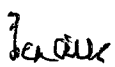
5. We have heard the learned counsel for the parties.


6. As stated earlier, OA 3268/2003 had been disposed by the Tribunal on 30.1.2003 without issue of any notice to the respondents on a perusal of the CR records produced by Respondent No.1. It was neither pointed out by the then counsel of the applicant nor by the counsel for the

Issue



respondents that CRs of RAW officers posted abroad are written by different authorities. It has now been admitted by the respondents that the administrative formalities including writing of ACRs are being done by the MEA. We also notice in para 6 of their reply to the RA that the respondent take into consideration the ACRs of officers of RAW posted on special assignments for the purpose of determining the suitability of the officer for his next assignment. These aspects were not in the knowledge of the Tribunal when it disposed of the OA earlier. We are, therefore, inclined to recall our order dated 30.1.2003 in the larger interest of dispensing justice. OA 3268/2003 is accordingly recalled. Notice be issued to the respondents returnable within four weeks. List on 25-3-2004.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

/gtv/

RA allowed
OA Reopened
Notations A issued
AID received
Service Computer
Refund sent