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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1599 of 2002

New Delhi, this the ^{29th April} day of May, 2003

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL.)

Ranjit Issar, IAS
S/o Late Shri H.N. Issar
MS-302 Bapu Dham
Sardar Patel Marg,
New Delhi.

-APPLICANTS

(By Advocate: Shri K. Sultan Singh)

Versus

1. State of Haryana, Through
Its Chief Secretary,
Civil Secretariat,
Chandigarh.

2. Union of India
Through
Secretary,
Department of Personnel,
Cabinet Secretariat,
New Delhi.

.. Respondents

(By Advocate: Ms. Kamal Deep Gulati)

O. R. D. E. R. (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl.)

The applicant has filed this OA under Section 19 of the A.T. Act seeking expunging of adverse remarks made in his ACR for the years 1998-99.

2. The facts in brief are that the applicant who belongs to IAS was allocated Haryana cadre. During the relevant period, i.e., 1998-99, the applicant was working as Chairman, Haryana State Electricity Board and Chairman-cum-Managing Director of Haryana Vidyut Prasaran Nigam Ltd. He was conveyed vide Annexure A-1 the following remarks :-

"A little more delegation and some more guidance to the IAS subordinates could make him a perfect leader of the team".



(2)

3. Though his overall performance was rated as outstanding, the applicant submitted that conveying of this remarks was adverse to his ACRs and this entails a civil consequences, as he is likely to be promoted and this will come in his way of promotion. The remarks, as stated above, are contrary to the overall performance which has been rated as outstanding.

4. Even otherwise the shortcoming in the performance of the officer discarding him from being rated outstanding. Outstanding is always awarded when a civil servant has a exceptional qualities and performance, the same has been noticed for which he has been granted outstanding report.

5. It is further stated that the reporting officer has not specifically stated about the shortcomings of the applicant nor has it ever been brought in any other communications to the notice of the officer concerned. The remarks are also vague and non-speaking and moreover these are in conflict with Article 38 of the Memorandum and Articles of Association of HVPN which itself prescribes the powers and functions of the Chairman and the other officers who had been appointed on senior level so there was no scope for the applicant to delegate any powers. Thus senior level officers has the powers which can be delegated under Memorandum and Articles of Association of HVPN. Thus it is prayed that the impugned order be quashed and the remarks be expunged from his ACR.



(3)

6. The respondents are contesting the OA. The respondents in their reply raised a preliminary objection that the applicant has not exhausted the remedies available to him under Rule 25 of the All India Services (Discipline and Appeal) Rules, 1969. It is also submitted that the adverse remarks were recorded by reporting authority in the ACR of the applicant for the years 1998-99 though it is admitted that the overall performance was rated as outstanding by the reporting authority.

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7. It is further submitted that no legal right has been infringed so he is not entitled to file the present OA. It is also pleaded that the Delhi Bench has no jurisdiction to entertain the OA which should have been filed before the CAT, Chandigarh Bench.

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8. It is denied that the delegation for assigning duties to various senior level officers was not the responsibility of the applicant. It is denied that the remarks are self contradictory since there is always scope for improvement for even an outstanding officer.

9. I have heard the learned counsel for the parties and gone through the records of the case.

10. At the outset I may mention that as regards the objection about the territorial jurisdiction of this Bench is concerned, this aspect has already been thrashed out. Even otherwise the applicant, who belongs to All India Service, has a right to file the OA before the Principal Bench.



(4)

11. As regards the adverse entries are concerned, the department has submitted that the remarks recorded by the reporting authority are of advisory nature and do not have any adverse effect on the applicant. As far this contention of the respondents are concerned, I may mention that the counsel for the respondents has argued something else than the pleas taken by the department in the counter reply as well as in the orders rejecting the representation of the applicant. The remarks had been treated as adverse in nature and these remarks will have civil consequences on the career prospects of the applicant.

12. As regards the remarks being so if contradictory are concerned, the learned counsel for the applicant has referred to a judgment reported in 1988 (7) ATC 820 entitled as S.T. Ramesh Vs. State of Karnataka and Others where it has been observed by the Bangalore Bench of the Tribunal as under:-

"Confidential reports - Adverse remarks - Self contradictory remarks - Held, where an officer's overall performance is considered outstanding, remarks about his occasionally deficient performance and desirability of further improvement are self-contradictory - Hence, struck down".

13. In this case also the applicant has been rated as an outstanding officer for his overall performance but at the same time the remarks which have been conveyed to the applicant do show that these are self contradictory to the overall remarks of outstanding awarded to the applicant.

14. As regards the justification of the remarks



(5)

are concerned since the applicant at the relevant time was working with the Corporation , the working of which is governed under the Memorandum and Articles of Association which itself prescribe the powers to different senior level officers so there was hardly any scope for further delegation of powers to those officers. So these remarks seems to be unjustified having been made in a casual manner. Since the overall grading of the applicant is that he has an outstanding performance so these remarks otherwise appear to be contradictory, these cannot be sustained.

15. Hence, I find that the remarks conveyed to the applicant are unjustified being self contradictory so these are liable to be struck off. Accordingly I hereby quash the same and respondents are directed to ignore the same. The respondents are directed to rectify the record.

16. The OA is allowed with the above directions.
No costs.

Kuldeep Singh
(KULDIP SINGH)
MEMBER(JUDL)

Rakesh