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**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.240/2014

Date of decision: 03.01.2020

**CORAM:- R. VIJAYKUMAR, MEMBER (A) .
R.N. SINGH, MEMBER (J) .**

Shri Daniel Antonio Figueiredo
Age 58 years,
working as Scientist/Engineer 'D',
working in the National Institute
of Electronics and Information
Technology, residing at 15, Amit Nagar,
Nandanvan Colony, Aurangabad,
Pin 431 002.

... Applicant.

(By Advocate Shri S. V. Marne)

VERSUS.

1. Union of India
Through the Secretary,
Ministry of Communications and
Information and Technology,
Department of Electronics and
Information Technology,
Electronics Niketan,
CGO Complex, Lodhi Road,
New Delhi-110 003.
2. The Managing Director
National Institute of
Electronics and Information
Technology, Electronics Niketan,
CGO Complex, Lodhi Road,
New Delhi-110 003.
3. The Director,
National Institute of
Electronics and Information
Technology,
Dr. Babasaheb Ambedkar Marathwada

University Campus,
Aurangabad-431 004.

4. Dr. V. N. Walivadekar,
Shri Vaishnav Institute of
Technology and Science,
Gram Baroli, Indore Sanwar
Road, Dist. Indore, M P Post
Alwasa Post Office, Palia 453 111.

.... Respondents.

(By Advocate Shri C. P. Sengaonkar)

O R D E R (O R A L)

Per: R. N. SINGH, MEMBER (J)

1. When the case is called out, Shri S. V. Marne, learned counsel appeared for the applicant.
2. Ms. Meena Barge, learned proxy counsel appeared for Shri C. P. Senagaonkar, learned counsel for the respondents.
3. This OA has been filed on 25.03.2014 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same quashing and set aside the Order dated 17.02.2014 and quash and set aside the adverse entries and overall grading given to the Applicant for the years 2007, 2008 and 2009 with a direction to Respondents to upgrade the overall

grading for the said years atleast to 'Very Good'.

b. As consequence of grant of prayer clause (a), the Respondents be directed to reconsider the case of the Applicant for grant of financial upgradation under the Modified Assured Career Progression Scheme w.e.f. 01.01.2011 in the grade of Scientist E and grant him such financial upgradation along with interest on arrears of pay and allowances, pension and pensionary benefits along with interest @12% p.a.

c. As a consequence of grant of upgradation in the post of Scientist E, w.e.f. 01.01.2011, the Respondents be directed to consider the case of the Applicant for upgradation to the post of Scientist F w.e.f. 01.01.2016.

d. Costs of the application be provided for.

e. Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

4. The applicant has subsequently prayed to modify the reliefs, prayed for in the OA and with no objection from the respondents, the prayer in OA has been modified accordingly.

5. The central issue raised by the applicant is that the respondents have not

considered the specific comments of the Reporting Officer of the applicant who had passed remarks with regard to the ACRs for the years 2007-08, 2008-09 and 2009-10 as below:

"I partly agree and partly disagree with account of the work reported on page 2 of ACR by the officer reported upon. For details, please refer enclosed Annexure A. HE after takes leave. As recorded, he has taken leave 15 times. In this year. The purpose of leave is mostly insomnia and head ache. His handwriting and irrelevances to page 2,3,4 and verbal interacting also speak of unhealthy mind (Phycgosis)."

6. Further, he also refers to ACR for the year 2007 wherein the general remarks include the remark that the applicant's handwriting itself indicates the status of his mind. It is found on examination of the detailed review as approved by the Secretary, DEITY that this aspect has not been brought to his notice for consideration.

7. In these circumstances, the OA is disposed of with directions to the respondents to consider the representation of the applicant afresh particularly the above aspects highlighted by the learned counsel for the applicant in the

course of his arguments and pass a reasoned and speaking order within six weeks and communicate these orders to the applicant within two weeks thereafter.

8. It is further directed that if on re-consideration of the representation of the applicant qua the ACR's of the applicant for the years 2007-08, 2008-09 and 2009-10, the ACRs are upgraded, the applicant shall be entitled for all the consequential benefits in accordance with relevant rules and instructions on the subject.

9. The OA is disposed of in the aforesaid terms.

10. However, in the facts and circumstances, no order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

SD
14/10/20

