

13

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No. 767/2016

Date of decision: 30.12.2019

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

Sulaiman Abdul Saleem
Age about 57 years,
Resident of Flat No.24,
H-Block, Hyderabad Estate,
Napeansea Road,
Mumbai-400 026,
working as Chief Architect,
CPWD (WR), Mumbai.

... Applicant.

(By Advocate Shri S. A. Deshpande)

VERSUS.

1. Union of India,
through Director
General C.P.W.D.,
Nirman Bhavan,
New Delhi-110 011.
2. Addl. Director General
(WR-I), CPWD, Pratishta Bhavan,
15th Floor, New Marine Lines,
Mumbai-400 020.
3. Chief Architect,
(Southern Region),
CPWD-III, Floor, G-wing,
Rajaji Bhavan,
Besantnagar,
Chennai-600 090.
4. Addl. Director General,
CPWD (S.R.) II,
Kendriya Sadan,

Koramangala,
Banglore-500 034.

... Respondents.
(By Advocate Shri B. K. Ashok Kumar)

O R D E R (O R A L)

Per: R. VIJAYKUMAR, MEMBER (A)

1. When the case is called out, Shri D. A. Deshpande, learned counsel appeared for the applicant.
2. Shri Rishi Ashok, proxy counsel appeared for Shri B. K. Ashok Kumar, learned counsel for the respondents.
3. This application has been filed on 07.11.2016 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a) This Hon'ble Tribunal may kindly be pleased to call for the records pertaining to the maintenance, writing of APAR (ACR) of the applicant due to which impugned orders are issued, for the perusal of the Hon'ble C.A.T.

b) This Hon'ble Tribunal may kindly be pleased to quash and set aside impugned orders dated 18.04.2016 (A-1) and direct the respondent No.1,3,4 to expunge" downgraded entries of "good" and further retain/write the entries as "very good" in the APAR of the applicant.

c) Direct the Respondents to give all consequential benefits to the applicant including consideration of his name for promotion as and when due.

d) Any other relief that this Hon'ble Tribunal may deem fit to be granted.

f) Cost of this O.A. may kindly be saddled on the respondent."

4. The applicant has challenged the orders of the respondents dated 18.04.2016 (Annexure A-1) rejecting his representation dated 23.03.2016 for reviewing his APAR for the period from 01.04.2014 to 21.03.2015, which was written by the Reporting Officer in time and after it was reviewed and accepted by the concerned authority, allegedly after the due dates, it was only uploaded on respondent's website on 15.12.2015. The respondents have replied stating that they had issued an office memorandum dated 16.05.2012 (Anneuxre R-2) by which it was informed to all the officers that hereafter, the APARs would be uploaded on PIMS website of the respondents. They have also submitted that they have sent him an email containing his APAR and he was allowed 15 days time to file his representation but instead of doing so he has filed after a delay of 85 days. In view of his delayed representation, they have not considered his representation and have given him a reply on these grounds which is now challenged by the applicant.

5. The applicant contends that there was a delay on the part of the respondents in writing of the review and for acceptance and the learned counsel for the applicant also admits that the applicant has not

been disadvantaged in any way by this particular APAR and he has received his promotion when due and that seniority principle has not been impacted by the respondents nor has the APAR affected his pay and service conditions. However, the learned counsel submits that the record of the APAR would be available for post-retirement opportunities for the applicant and therefore, he submits that the respondents could have given sympathetic consideration of his request for reviewing the APAR considering that he was a very senior officer of the department and his APAR through the years was above the benchmark.

6. It is not in dispute that the APAR of the applicant for the relevant period has been reviewed and has been accepted by the Competent Authority but not within the time limits prescribed on the subject. It is also not in dispute that if the representation of the applicant although delayed by some days had been considered by the Competent Authority, no prejudice was likely to be caused to the respondents or other staff.

7. In the facts and circumstances, the OA is disposed of with directions to the respondents to consider the applicant's representation dated 23.03.2016 against the APAR for the year 01.04.2014 to

21.03.2015 and dispose of the same by passing a reasoned and speaking order as expeditiously as possible or in any case within 10 weeks from the date of receipt of a certified copy of this order.

8. In view of the above, no order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

SD
3/1/2019

