



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.883/2014
M.A. No.102/2020

Wednesday, this the 19th day of February 2020

Hon'ble Sri Justice L. Narasimha Reddy, Chairman
Hon'ble Sri A. K. Bishnoi, Member (A)

Smt. Rekha Vishnoi
Aged about 59 years
w/o Dr. P S Vishnoi
r/o C-520 Sarita Vihar, New Delhi – 110 076
(Sri Sagar Saxena, Advocate)

..Applicant

Versus

Union of India through

1. Secretary
Department of Revenue
Ministry of Finance
North Block, New Delhi
2. Chairman
Central Board of Direct Taxes
Department of Revenue
Ministry of Finance
North Block, New Delhi
3. Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi
4. Secretary
Department of Personnel & Training
Ministry of Personnel, Pension and Public Grievance,
North Block, New Delhi

..Respondents

(Sri Amir Sheikh, Advocate for Sri Hanu Bhasker, Advocate for respondent Nos. 1 & 2, Sri Ravinder Aggarwal, Advocate for respondent No.3 and *Nemo* for respondent No.4)

O R D E R (ORAL)



Justice L. Narasimha Reddy:

The applicant is an officer of Indian Revenue Service (IRS). Her Annual Confidential Report (ACR) for the period 2002-03 was graded as 'Good', by the reporting as well as reviewing officers. The ACR of 2007-08 was also rated as 'below benchmark'. Since no adverse remarks were made in the ACRs, they were not communicated to her. However, in view of the judgment of Hon'ble Supreme Court in **Dev Dutt v. Union of India & others**, (2008) 8 SCC 725, the respondents communicated the ACR of the applicant for the years 2002-03 & 2007-08. The applicant made a common representation for upgradation of the ACRs for the periods 2002-03 & 2007-08. Through an order dated 01.10.2010, the competent authority refused to upgrade the ACRs. It seems that the applicant made two separate representations in respect of two ACRs. Though the one referable to 2007-08 was upgraded, through order dated 19.04.2012, the competent authority refused to upgrade the ACR of 2002-03, through order dated 02.12.2013.



Feeling aggrieved by the action of the respondents, the applicant filed the present O.A.

2. It is stated that the competent authority did not assign any reasons for refusing to upgrade the ACR of 2002-03, and that such approach is contrary to law.
3. The respondent Nos. 1 & 2 on the one hand and respondent No.3 on the other hand, filed separate counter affidavits. It is stated that the prescribed procedure was duly followed and that the competent authority did not find any reason to upgrade the ACR of 2002-03.
4. We heard Sri Sagar Saxena, learned counsel for applicant, Sri Amir Sheikh for Sri Hanu Bhasker, learned counsel for respondent Nos. 1 & 2, and Sri Ravinder Aggarwal, learned counsel for respondent No.3, at length.
5. The representation of the applicant for upgradation of ACR for two years, referred to above, was rejected, through order dated 01.10.2010. The applicant filed O.A. No.435/2012 on earlier occasion, and on the basis of the directions issued therein, the respondents passed two separate orders; the first is about the ACR of 2007-08 which was upgraded; the another order is dated



02.12.2013 in respect of ACR of 2002-03, and the competent authority rejected the same. This O.A. is filed with reference to ACR of the applicant for the period 2002-03. The prayer itself somewhat typical. It reads:

“(i) quash and set aside the impugned order as issued in September, 2010 (Annexure-A-1) and the order dated 02.12.2013 (Annexure-A-2) and also quash and set aside the ACR of the applicant for the period of 2002-03 being illegal;

(ii) declare the applicant entitled to all consequential benefits;

(iii) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

6. This O.A. is filed only for quashing the ACR and not for upgradation thereof. Secondly, it was not pleaded in the O.A. that the applicant was denied any promotion on account of upgradation of the ACR of 2002-03. Whatever may have been the purpose in pursuing the remedy when the applicant was in service, once she retired from service and did not have any qualms about the effect of the ACR of 2002-03, the entire exercise virtually becomes academic. All the same, the applicant seems to be very particular in this behalf. When this O.A. was disposed of earlier by taking into account, the fact that the applicant is



no more in service, she filed a writ petition and the Hon'ble High Court remanded the matter, for fresh consideration.

7. Even while hearing the O.A. after remand, we wanted to verify whether the applicant was denied any promotion on account of ACR of 2002-03. No specific answer is forthcoming. Be that as it may, the impugned order dated 01.10.2010 does not mention any specific reasons. The prescribed procedure mandates that the version of the reporting and reviewing authorities must be invited by the Competent Authority. Obviously because there was a gap of more than a decade, the remarks do not appear to have been called for. Now the issue is more than two decades old. The calling of the remarks of the reporting and reviewing authorities virtually becomes impossible. All the same, the Competent Authority has to follow the alternative procedure, if any, and assign reasons, in support of his conclusion.

8. We, therefore, allow the O.A. and set aside the impugned order dated 01.10.2010 and direct the Competent Authority to pass orders on the representation dated 19.08.2010 submitted by the applicant, by



furnishing detailed reasons and following the prescribed procedure, within a period of three months from the date of receipt of a copy of this order.

9. M.A. No.102/2020 stands disposed of.

There shall be no order as to costs.

February 19, 2020
/sunil/